PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

TRADE BILL

Sixth Sitting

Tuesday 30 January 2018

(Afternoon)

CONTENTS

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Saturday 3 February 2018

The Committee consisted of the following Members:

Chairs: † Philip Davies, Joan Ryan, James Gray, Sir David Crausby

† Badenoch, Mrs Kemi *(Saffron Walden)* (Con)
† Bardell, Hannah *(Livingston)* (SNP)
† Brown, Alan *(Kilmarnock and Loudoun)* (SNP)
† Cummins, Judith *(Bradford South)* (Lab)
† Esterson, Bill *(Sefton Central)* (Lab)
† Gardiner, Barry *(Brent North)* (Lab)
† Hands, Greg *(Minister for Trade Policy)*
† Hughes, Eddie *(Walsall North)* (Con)
† Keegan, Gillian *(Chichester)* (Con)
† McMorrin, Anna *(Cardiff North)* (Lab)
† Prisk, Mr Mark *(Hertford and Stortford)* (Con)
† Pursglove, Tom *(Corby)* (Con)
† Rashid, Faisal *(Warrington South)* (Lab)
† Smith, Nick *(Blaenau Gwent)* (Lab)
† Stewart, Iain *(Milton Keynes South)* (Con)
† Vickers, Martin *(Cleethorpes)* (Con)
† Western, Matt *(Warwick and Leamington)* (Lab)
† Whittaker, Craig *(Lord Commissioner of Her Majesty's Treasury)*
† Wood, Mike *(Dudley South)* (Con)

Kenneth Fox, *Committee Clerk*

† attended the Committee

Public Bill Committee

Tuesday 30 January 2018

(Afternoon)

[Philip Davies *in the Chair*]

Trade Bill

Clause 2

Implementation of international trade agreements

Amendment proposed (this day): 8, in clause 2, page 2, line 9, at end insert—

"(4A) Regulations may only be made under section 2(1) if—

(a) the provisions of the international trade agreement to which they relate are consistent with standards for food safety and quality as set and administered by—

(i) the Department of Health;

(ii) the Food Standards Agency; and

(iii) any other public authority specified in regulations made by the Secretary of State;

(b) the Secretary of State is satisfied that mechanisms and bodies charged with enforcement of standards for food safety and quality have the capacity to absorb any extra requirement which may arise from the implementation of the agreement;

(c) the provisions of the international trade agreement to which they relate are consistent with policy to achieve reduction in the risk of disease or contamination as set and administered by—

(i) the Department of Health;

(ii) the Food Standards Agency; and

(iii) any other public authority specified in regulations made by the Secretary of State;

(d) the provisions of the international trade agreement to which they relate are consistent with achieving improvements in public health through any food policy priorities set and administered by—

(i) the Department of Health;

(ii) the Food Standards Agency; and

(iii) any other public authority specified in regulations made by the Secretary of State;

(e) the provisions of the international trade agreement to which they relate are compliant with policy to achieve targets for farm antibiotic reduction set by the Veterinary Medicines Directorate;

(f) the provisions of the international trade agreement to which they relate are compliant with retained EU law relating to food standards and the impact of food production upon the environment; and

(g) any food or food products to which the provisions of the international trade agreement apply meet standards of labelling, indication of provenance, and packaging specified by the Food Standards Agency.

(4B) A statutory instrument containing regulations of the Secretary of State under this section may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.".—*(Judith Cummins.)*

This would ensure that international trade agreements maintain or enhance food safety standards in the UK.

Question again proposed, That the amendment be made.

2 pm

The Minister for Trade Policy (Greg Hands): May I start by welcoming you to the Chair, Mr Davies?

The Government have already made it clear that we will not use the necessary and indeed pertinent exercise of continuing the effects of our existing agreements as a back-door way to reduce standards, including food safety standards. As the Prime Minister said in Florence in September, we are

"committed not only to protecting high standards, but strengthening them…we will always be a country whose pitch to the world is high standards at home."

I am happy to reaffirm the Prime Minister's commitment to the Committee. We are committed to upholding and strengthening our high standards in public health and safety, product performance and protecting the environment.

Faisal Rashid (Warrington South) (Lab): How does the Minister plan to prevent a race to the bottom on food safety standards in the UK and to protect British consumers if he is not prepared to accept the amendment?

Greg Hands: The Government have always been clear that we will maintain our very high standards on food and animal welfare, and for protection in that space. There will be no race to the bottom. Nothing in free trade agreements precludes a Government from regulating in the domestic environment. I hope that that is enough reassurance for the hon. Gentleman. On protecting the environment, high standards and high quality are what our domestic and global consumers demand, and that is what we should provide.

To be clear, nothing in the Bill would allow us to do a free trade agreement with the United States because, as we know, the United States does not have a free trade agreement with the European Union. While the hon. Member for Bradford South gave an interesting speech of some length about what may or may not happen in any future trade agreement with the United States, it is worth mentioning that the Bill does not cover free trade agreements with the United States. Any future free trade agreement with the United States must work for UK farmers, businesses and consumers, and uphold food safety and animal welfare standards. However, that is a matter for a future day; it is not relevant to the Bill before us.

Barry Gardiner (Brent North) (Lab): Surely the Minister appreciates that the examples of the USA were given in order to clearly illustrate the principles. At no point was it suggested that those examples were a necessary follow on. However, they illustrated the principles, and the Minister must appreciate that and take it seriously, in terms of the amendment.

Greg Hands: We take incredibly seriously food safety standards, animal welfare and so on. If the hon. Gentleman is suggesting that he has serious concerns in those spaces in respect of any of the 40-plus current EU trade agreements that we are seeking to move into UK law, perhaps he could let me know.

Barry Gardiner: I am very happy to adumbrate on that. The particular concerns relating to growth hormones in beef are, of course, of equal importance in the context of any future UK-Canada trade agreement, given that Canadian beef farmers are permitted to use growth hormones in a way that our farmers are not. The EU granted a higher quota to hormone-free Canadian beef exports in the EU-Canada comprehensive economic and trade agreement negotiations. It was only popular

pressure that prevented the European Commission from relaxing the ban on imports of hormone beef. We simply want to ensure that Parliament is the place where this country takes decisions on whether to relax or tighten our food standards. We do not want those decisions taken in secret trade negotiations and then imposed on us through the excessive powers in the Bill.

Greg Hands: I am certain that CETA is consistent with our food safety and animal welfare standards. What is more, I think the majority of Labour MPs agree with me. Last February, Labour MPs split 86 in favour of CETA and 68 against, so whatever concerns the hon. Member for Brent North has, I gently suggest that he tries to persuade his own party before coming to see the Government.

Barry Gardiner: Again, I am happy to take on the Minister on that. He is talking about something that happened before the previous election, and as personnel change, so perhaps does the wish of the members of the parliamentary Labour party. However, that is not really the point. He will also find that those people on the Labour Benches who wanted to support CETA on that occasion seem now to have changed their views about whether CETA—the Canadian model—is a good model for us to pursue in the trade negotiations. Most of them seem to have turned tail and run to the other side.

Greg Hands: The hon. Gentleman is trying to mix up the transitional and existing trade agreements with our future trading relationship with the European Union—which, I remind the Committee, is also not a subject of the Bill. I think he said that his vote against CETA was before the previous election, and if he is suggesting that he might have changed his mind on CETA, I am all ears. When we come to ratification of the treaty, I would personally welcome him as a sinner that repenteth, were he to come into the Lobby with Conservative Members to support the Canadian free trade agreement.

Barry Gardiner *rose—*

Greg Hands: I will not give way. We are getting a little off the point.

We are absolutely clear that all existing commitments on standards and regulations will remain when those agreements are transitioned. That is in line with our clearly articulated principle that our intent is to transition solely the existing effect of the agreements. The amendment is therefore unnecessary and I ask the hon. Member for Bradford South to withdraw it.

Judith Cummins (Bradford South) (Lab): We will not withdraw the amendment and wish to proceed to a vote.

Question put, That the amendment be made.

The Committee divided: Ayes 7, Noes 10.

Division No. 5]

AYES

Cummins, Judith	Rashid, Faisal
Esterson, Bill	Smith, Nick
Gardiner, Barry	Western, Matt
McMorrin, Anna	

NOES

Badenoch, Mrs Kemi	Pursglove, Tom
Hands, rh Greg	Stewart, Iain
Hughes, Eddie	Vickers, Martin
Keegan, Gillian	Whittaker, Craig
Prisk, Mr Mark	Wood, Mike

Question accordingly negatived.

Amendment proposed: 9, in clause 2, page 2, leave out line 33.—*(Barry Gardiner.)*

This would remove the Henry VIII power allowing for the modification of primary legislation that is retained EU law.

Question put, That the amendment be made.

The Committee divided: Ayes 9, Noes 10.

Division No. 6]

AYES

Bardell, Hannah	McMorrin, Anna
Brown, Alan	Rashid, Faisal
Cummins, Judith	Smith, Nick
Esterson, Bill	Western, Matt
Gardiner, Barry	

NOES

Badenoch, Mrs Kemi	Pursglove, Tom
Hands, rh Greg	Stewart, Iain
Hughes, Eddie	Vickers, Martin
Keegan, Gillian	Whittaker, Craig
Prisk, Mr Mark	Wood, Mike

Question accordingly negatived.

Amendment proposed: 10, in clause 2, page 2, line 40, at end insert—

"(7A) An 'international agreement that mainly relates to trade, other than a free trade agreement' means a strategic partnership agreement or mutual recognition agreement that is ancillary to a free trade agreement as defined in subsection (7)."—*(Barry Gardiner.)*

This would define international trade agreements that do not fall within the category of a "free trade agreement" as defined under subsection (7).

Question put, That the amendment be made.

The Committee divided: Ayes 9, Noes 10.

Division No. 7]

AYES

Bardell, Hannah	McMorrin, Anna
Brown, Alan	Rashid, Faisal
Cummins, Judith	Smith, Nick
Esterson, Bill	Western, Matt
Gardiner, Barry	

NOES

Badenoch, Mrs Kemi	Pursglove, Tom
Hands, rh Greg	Stewart, Iain
Hughes, Eddie	Vickers, Martin
Keegan, Gillian	Whittaker, Craig
Prisk, Mr Mark	Wood, Mike

Question accordingly negatived.

Barry Gardiner: I beg to move amendment 11, in clause 2, page 2, line 41, leave out subsections (8) and (9) and insert—

"(8) No regulations may be made under subsection (1) in relation to an agreement which meets the criteria in subsection (3) or (4) after the end of the period of five years beginning with exit day."

This would make the sunset clause governing section 2(1) non-renewable.

The Chair: With this it will be convenient to discuss the following:

Amendment 12, in clause 2, page 2, line 41, leave out subsections (8) and (9) and insert—

"(8) No regulations may be made under subsection (1) in relation to an agreement which meets the criteria in subsection (3) or (4) after the end of—

(a) the period of five years beginning with exit day ("the initial five year period"), or

(b) such other period as is specified in regulations made by the Secretary of State in accordance with subsection (9).

(9) Regulations under subsection (8)(b) may not extend the initial five year period beyond the day which falls ten years after exit day."

This would make the sunset clause governing section 2(1) renewable once only.

Amendment 35, in clause 2, page 3, line 3, at end insert—

"(10) No regulations may be made under subsection (8)(b) unless the Secretary of State has consulted with the Scottish Ministers and the Welsh Ministers."

This amendment would ensure that there must be consultation with the Scottish Ministers or Welsh Ministers before any extension of the powers in Clause 2.

Barry Gardiner: I, too, am pleased to welcome you back to the Chair, Mr Davies. How do you know when a Minister feels guilty? It is when he or she introduces a sunset clause. The Government know they are pulling a fast one in the Bill and clause 2 includes the Henry VIII power for Government to amend primary legislation by fiat. The provisions in the rest of clause 2 and its accompanying schedules reduce hon. Members of this House to little more than bystanders at a royal pageant.

The Government try to mitigate their power grab by making the offending powers in clause 2(1) subject to a five-year sunset clause. The Secretary of State is on record as saying:

"I hear people saying, 'Oh, we won't have any before we leave'. Well, believe me, we'll have up to 40 ready for one second after midnight in March 2019. All these faint hearts saying we cannot do it—it's absolute rubbish".

Let us for a moment take the Secretary of State at his word and believe him when he tells us that we will have all these shiny new agreements ready and waiting by the end of March 2019. The five-year sunset clause that the Bill gives the Government is surely, therefore, the sort of defeatist nonsense that the faint-hearted would say they need. According to the Secretary of State, a half-hour sunset clause would be more than enough—perhaps half a day to pick up the stragglers or half a week to pick up the rank outsiders, the real laggards in the case. What is this nonsense?

There is a serious issue, because these agreements are supposed to provide British businesses with the certainty they desperately need so as to plan their operations and their investments in respect of trade with those countries with which we already have agreements by virtue of our membership of the EU.

Yes, the Secretary of State for Exiting the European Union has confirmed that the UK will be unable to implement any of the new trade agreements until the end of a two-year transition period that we will negotiate with the EU, but that only buys the Government until the end of 2020 to come up with the 40 new trade agreements the Secretary of State promised would be ready by March 2019. The end of 2020 is the terminus proposed by the EU for our transition period, as was confirmed in the negotiating directives that it adopted yesterday.

2.15 pm

So how can the Government say that they need longer than the five years that the Bill already grants them? The Bill will allow the Government until March 2024—more than three years after the extended deadline that has just been granted in the transition period after we leave the EU. Surely we cannot really be telling businesses that they will be hanging on by their fingernails to the cliff edge for more than six years from now.

I am not suggesting that we should rush the negotiation of any of the new trade agreements that will replace those that we have enjoyed with third countries by virtue of our membership of the EU—far from it. We need to get them right. What I am saying is that we should have a proper process of consultation and parliamentary scrutiny by which to debate and vote on what comes out of those negotiations.

Faisal Rashid: Does my hon. Friend agree that, without limits on the renewability of the sunset clause and against the backdrop of a Government failure to commit to a second trade Bill, this Bill will certainly be seen by many as a potential Trojan horse for the Government to introduce future deals with minimum levels of scrutiny?

Barry Gardiner: My hon. Friend is absolutely right to be sceptical. The Minister has made much of the arguments that, first, there is a need for speed and, secondly, this is only a temporary Bill that puts in place temporary provisions to roll over the existing agreements. In fact, the powers—certainly the ones relating to the agreement on government procurement—are not temporary; they last longer.

Here, in the provisions of the sunset clause, we have not just one sunset period but the possibility of indefinite roll-overs of the sunset clause itself: five years, followed by five years, followed by five years. If the Minister is absolutely confident that the Bill is a temporary necessity, one must wonder why he wants the sunset clause to continue indefinitely into the future at the Government's will, when it enables the Government to take on a Henry VIII power.

When I say that there should be a proper process of consultation and scrutiny by which to debate the negotiations, I am only replicating what Anastassia Beliakova of the British Chambers of Commerce demanded in her oral evidence during our final witness session last Tuesday, when she said that provision needs to be made not only for "appropriate scrutiny in Parliament" but for a proper process of "stakeholder engagement for business" and "civil society" in order to scrutinise any changes that might arise as a result of the negotiations.

If the Government are adamant that such a process is to be denied us, rejecting the advice of business and

the demands of trade unions and other civil society bodies, it should be denied us for an absolute maximum of five years, with no renewal of the sunset clause, as provided for in clause 2(8) and (9). Every day longer that the Government have those powers is another day for which parliamentary democracy is put on hold. The first of our amendments says that five years is enough. We believe that it is five years too many, given the unmerited powers that the Bill grants to the Government and the rights that it strips away from Parliament, but certainly five years should be enough. If the Government still have not managed to roll over their agreements by March 2024, that power should disappear along with the expiry date.

I really wonder whether Government Members themselves believe that an indefinite use of a roll-over to give an unending Henry VIII power to the Government is a sensible power that this Committee should grant.

Let us say that the Government persist in getting rid of amendment 11. Amendment 12 would allow the Government one renewal only. That is, the Government would be allowed to ask Parliament for permission to renew the sunset clause for one extension, but no more. That would allow the Government the unmerited powers in the Bill right up to the end of March 2029. Can the Minister really demand, with any sense of integrity, that this Committee afford him and the Government greater power than that?

Alan Brown (Kilmarnock and Loudoun) (SNP): It is a pleasure to serve under your chairmanship again, Mr Davies.

First, I reiterate that Opposition Members do not see the Bill as fit for purpose. We accept the need for clause 2: the Government will need to manage the handover of trade deals that are currently accessed through the EU. However, clause 2 is deficient and we are still to hear what the Government will to do to improve it and to improve the Bill. They have voted down every amendment that has been proposed so far, so it would be good to hear the Minister's plan. Again, that is particularly important regarding the Government's attitude to the devolved Administrations.

Just this morning, BBC Radio Scotland led its headline news with a report on the European Union (Withdrawal) Bill, which is now moving to the House of Lords, and the fact that the House of Lords will have to make amendments to clause 11—amendments that were originally promised by the UK Government but were not brought forward. It did not paint the UK Government in a good light, especially when the UK Government could not even put up any spokesperson; it is plain why that was the case.

I say to the Minister that, given that the Scottish and Welsh Governments have both said that they will withhold a legislative consent motion unless there are amendments to this Bill, it would be prudent for him not to fall into that trap. Failing to make amendments once looks incompetent, but if proper amendments are not made to this Bill that satisfy the devolved Administrations, it will look a bit more sinister than mere incompetence.

I remind the Committee that it is not just politicians from the Scottish National party who are saying this; clearly, the Welsh Government are in agreement with the SNP. In the evidence sessions, which the Minister was at, we heard from different witnesses. Chris Southworth from the International Chamber of Commerce UK said:

"Overall...I would be concerned if I were in the devolved Administrations. There is specifically no opportunity for the devolved Administrations…to feed into decisions on trade. I would be very concerned about that, particularly in the devolved Administrations".—[*Official Report, Trade Public Bill Committee*, 23 January 2018; c. 35, Q80.]

Michael Clancy from the Law Society of Scotland said:

"There is clearly an issue about how the Sewel convention or legislative consent convention is interpreted in respect of that…any proposals in UK Parliament legislation that seek to alter the legislative competence of the Parliament or of Scottish Ministers require the consent of the Parliament."—[*Official Report*, *Trade Public Bill Committee*, 23 January 2018; c. 56, Q107.]

Professor Winters from the UK Trade Policy Observatory said:

"Parliament and the devolved Administrations need to have an important role in setting mandates, and there need to be consultation and information during the process."—[*Official Report*, *Trade Public Bill Committee*, 23 January 2018; c. 58, Q111.]

In written evidence, the Fairtrade Foundation, Trade Justice Movement, Global Justice Now and Traidcraft all clearly expressed the need for the devolved Administrations and Chambers to be given a role in the UK's future trade policy.

Unfortunately, despite all that evidence the position of the hon. Member for Brent North appears to be that if the devolved nations do not have the powers at present, they should not look at getting them in the future. His phrase earlier was that they "shouldn't be looking upwards". To me, that sounds a wee bit like, "Don't get ideas above your station".

We have not tabled any amendments to schedule 1, which imposes limitations on the devolved Administrations. I would argue that that in itself shows that the Scottish Government and the Welsh Government have taken a rational approach to the Bill in respect of the various amendments that have been tabled. We are not trying to create some form of awkward veto, as has been suggested elsewhere. Our simple intention is to make sure that the devolved Administrations are not ridden over roughshod. That means that there needs to be co-operation, consultation and consent.

Barry Gardiner: I want to reassure the hon. Gentleman that we are absolutely at one with him in wanting to ensure that the Bill does not make provision for Westminster Ministers to overreach themselves into devolved competences in any of the devolved Assemblies of the nations of our United Kingdom. We are equally concerned about that.

I have tried to present amendments in as open a way as possible, so that we can get the best wisdom from the Government and from the devolved Administrations, to ensure that nothing is done that would make it difficult, or indeed impossible, for a UK Government to honour any aspects of their international obligations under an international trade treaty. That is my only concern, and I am sure we can get to the right place with good will all round. It is a constitutional question, because these powers have not previously been possessed by the UK Government; they were held at EU level. It is therefore important that we give the matter the scrutiny that it deserves.

On amendment 35, which we are about to move on to, we are probably at one.

The Chair: Order. I remind hon. Members that interventions are meant to be briefer than the leeway I allowed the hon. Gentleman.

Alan Brown: Thank you, Mr Davies, and I thank the hon. Gentleman for his intervention. I welcome his opening remarks, and I might have an opportunity to show how much when other amendments go to a vote. I also welcome his support for amendment 35. He talked about the wisdom of co-operation and of working with Government, and the wisdom of devolved Administrations. It is maybe a pity that the wisdom of the devolved Administrations is coming through me rather than directly, but we will just have to deal with that.

Amendment 35 is very modest. All we are asking is that, if the UK Government propose to extend the sunset clause, they must consult the Scottish and Welsh Governments. That does not seem to be too big an ask to me. It is also more pertinent given the five-year period proposed in the Bill. Given that the Bill, as I keep hearing, is to do only with the UK's access to existing EU trade deals and bringing those deals into UK legislation, it makes me wonder why we would ever need a period beyond five years. We are dealing with legislation that should be coming forward quickly, given the date for leaving the EU, and given that the International Trade Secretary has said that these negotiations will be the easiest in human history. Why we would need Henry VIII powers beyond five years is a mystery. We are just asking for the courtesy that the Scottish and Welsh Governments are consulted if that is the case.

Greg Hands: We have had a wide-ranging and interesting mini debate, full of historical references and colourful metaphors. We have had Henry VIII, plenty of sunsets and royal pageants. The hon. Member for Warrington South even introduced a Trojan horse. It has been a helpful debate.

Let me try to explain why we have included the sunset clause for this power, because once I have explained, all will become clearer. It is so that Parliament can have the chance to review its merits once again five years after exit date. However, since this power may be required to ensure the operability of transition agreements beyond the five-year period, potentially indefinitely, it is important that the Government have the option to extend the use of the clause 2 power. That will, of course, be subject to the approval of both Houses.

2.30 pm

For example, the power might be needed so that we can make technical changes to agreements after exit day to ensure that they remain operable on a longer-term basis. To give a specific example, in the case of a transitioned mutual recognition agreement, we may need to change secondary legislation to update the names of awarding bodies in third countries so that UK businesses can continue to use such bodies legally. Alternatively, where our trade agreements refer to international standards—we debated environmental and labour protection earlier, for example—we may need the power to update those references in domestic legislation to ensure that we remain compliant with our international agreements. Removing the possibility of extension would compromise the purpose of the power in ensuring the continuity and future operability of our current trading arrangements, risking disruption for UK businesses in the future.

Applying the affirmative procedure to the sunset clause means that the instrument that extends the power must be approved by resolutions of both Houses. The Secondary Legislation Scrutiny Committee would have the role of scrutinising the policy intention behind the regulations and, through its reports, drawing to the attention of the other place any that may be interesting, flawed or inadequately explained by the Government. In short, that means that Parliament would have significant oversight of the necessary legislation should the Government seek to extend the clause 2 power.

On amendment 35, in the name of the Scottish National party, we have been clear that we will continue to engage with the devolved Administrations as we transition our current arrangements.

Hannah Bardell (Livingston) (SNP): I am certain that the right hon. Gentleman is determined, in his approach and plan, to consult the devolved nations. If he is, why not put that in the Bill to ensure that it happens?

Greg Hands: Because I like to keep legislation as brief as possible and, as I shall explain, I do not think it necessary for us to write that obligation into the Bill. Of course, we would continue to engage should we need to extend the clause beyond its sunset five years after exit day.

I was intrigued by the exchange between the hon. Members for Kilmarnock and Loudoun and for Brent North. I am still trying to find out why, on Thursday, the Labour Front-Bench team did not support the amendment promoted by the Welsh Government. I am not sure that the hon. Gentleman properly explained, but perhaps when he responds he can throw a little more light on why he has seemingly jettisoned his colleagues from Wales, one of whom is on this very Committee.

On the requirement for a legislative consent motion, we have been clear that we are seeking such a motion for the Bill. I heard what the hon. Member for Kilmarnock and Loudoun said about that, and I am sure that we will engage further. We are obviously talking to the devolved Administrations so that we can work towards delivering a Bill that will benefit the whole UK. Given that, we do not think that the formal commitments on consultation and engagement in amendment 35 would add substantively to the Bill. I therefore ask hon. Members not to press the amendments.

Barry Gardiner: We have no intention of withdrawing amendment 11, so we need to press it to a vote.

Question put, That the amendment be made.

The Committee divided: Ayes 9, Noes 10.

Division No. 8]

AYES

Bardell, Hannah	McMorrin, Anna
Brown, Alan	Rashid, Faisal
Cummins, Judith	
Esterson, Bill	Smith, Nick
Gardiner, Barry	Western, Matt

NOES

Badenoch, Mrs Kemi	Hughes, Eddie
Hands, rh Greg	Keegan, Gillian

Prisk, Mr Mark	Vickers, Martin
Pursglove, Tom	Whittaker, Craig
Stewart, Iain	Wood, Mike

Question accordingly negatived.

The Chair: Do you also wish to press amendment 12 to a Division, Mr Gardiner?

Barry Gardiner: On amendment 12, to respond to what the Minister said, we heard oral evidence from Mr Howarth, who was in fact an adviser to Conservative MPs, that the Henry VIII powers were needed only for minor changes, potentially around the EU agreements—

The Chair: Order. May I interrupt the hon. Gentleman? His opportunity to respond to the debate was before the previous Division. I was really just asking whether he wanted to move amendment 12 formally.

Barry Gardiner: I was simply explaining that, in the light of the Minister's remarks, we do wish to move the amendment, because it conforms with the suggestions of one of the Government's own witnesses.

Amendment proposed: 12, in clause 2, page 2, line 41, leave out subsections (8) and (9) and insert—

"(8) No regulations may be made under subsection (1) in relation to an agreement which meets the criteria in subsection (3) or (4) after the end of—

(a) the period of five years beginning with exit day ('the initial five year period'), or

(b) such other period as is specified in regulations made by the Secretary of State in accordance with subsection (9).

(9) Regulations under subsection (8)(b) may not extend the initial five year period beyond the day which falls ten years after exit day."—*(Barry Gardiner.)*

This would make the sunset clause governing section 2(1) renewable once only.

Question put, That the amendment be made.

The Committee divided: Ayes 9, Noes 10.

Division No. 9]

AYES

Bardell, Hannah	McMorrin, Anna
Brown, Alan	Rashid, Faisal
Cummins, Judith	Smith, Nick
Esterson, Bill	Western, Matt
Gardiner, Barry	

NOES

Badenoch, Mrs Kemi	Pursglove, Tom
Hands, rh Greg	Stewart, Iain
Hughes, Eddie	Vickers, Martin
Keegan, Gillian	Whittaker, Craig
Prisk, Mr Mark	Wood, Mike

Question accordingly negatived.

Amendment proposed: 35, in clause 2, page 3, line 3, at end insert—

"(10) No regulations may be made under subsection (8)(b) unless the Secretary of State has consulted with the Scottish Ministers and the Welsh Ministers."—*(Alan Brown.)*

This amendment would ensure that there must be consultation with the Scottish Ministers or Welsh Ministers before any extension of the powers in Clause 2.

Question put, That the amendment be made.

The Committee divided: Ayes 9, Noes 10.

Division No. 10]

AYES

Bardell, Hannah	McMorrin, Anna
Brown, Alan	Rashid, Faisal
Cummins, Judith	Smith, Nick
Esterson, Bill	Western, Matt
Gardiner, Barry	

NOES

Badenoch, Mrs Kemi	Pursglove, Tom
Hands, rh Greg	Stewart, Iain
Hughes, Eddie	Vickers, Martin
Keegan, Gillian	Whittaker, Craig
Prisk, Mr Mark	Wood, Mike

Question accordingly negatived.

Clause 2 ordered to stand part of the Bill.

Clause 3 ordered to stand part of the Bill.

Schedule 1

RESTRICTIONS ON DEVOLVED AUTHORITIES

Amendment proposed: 36, in schedule 1, page 7, line 24, at end insert—

"(4) This paragraph does not apply to regulations made under section 1(1) or 2(1) by the Scottish Ministers or the Welsh Ministers."—*(Alan Brown.)*

This amendment would give the Scottish and Welsh Ministers power, by regulation, to amend direct EU legislation that forms part of domestic law on and after exit day in devolved areas.

Question put, That the amendment be made.

The Committee divided: Ayes 2, Noes 10.

Division No. 11]

AYES

Bardell, Hannah	Brown, Alan

NOES

Badenoch, Mrs Kemi	Pursglove, Tom
Hands, rh Greg	Stewart, Iain
Hughes, Eddie	Vickers, Martin
Keegan, Gillian	Whittaker, Craig
Prisk, Mr Mark	Wood, Mike

Question accordingly negatived.

Amendment proposed: 37, in schedule 1, page 8, line 5, at end insert—

"(4) This paragraph does not apply to regulations made under section 1(1) or 2(1) by the Scottish Ministers or the Welsh Ministers.

Requirement for consultation in certain circumstances

3A (1) No regulations may be made by the Scottish Ministers or the Welsh Ministers acting alone under section 1(1) or 2(1) so far as the regulations are to come into force before exit day unless the regulations are, to that extent, made after consulting with a Minister of the Crown.

(2) No regulations may be made by the Scottish Ministers or the Welsh Ministers acting alone under section 2(1) so far as the regulations make provision about any quota arrangements or are incompatible with any such arrangements unless the regulations are, to that extent, made after consulting with a Minister of the Crown.

(3) In sub-paragraph (2) "quota arrangements" has the same meaning as in paragraph 3."—*(Hannah Bardell.)*

This amendment would replace the requirement for the Scottish and Welsh Ministers to obtain the consent of the UK Government when acting alone under section 1(1) or 2(1) with the need to consult before making such regulations.

Question put, That the amendment be made.

The Committee divided: Ayes 2, Noes 10.

Division No. 12]

AYES

Bardell, Hannah	Brown, Alan

NOES

Badenoch, Mrs Kemi	Pursglove, Tom
Hands, rh Greg	Stewart, Iain
Hughes, Eddie	Vickers, Martin
Keegan, Gillian	Whittaker, Craig
Prisk, Mr Mark	Wood, Mike

Question accordingly negatived.

Schedule 1 agreed to.

Schedule 2

REGULATIONS UNDER PART 1

Barry Gardiner: I beg to move amendment 13, in schedule 2, page 12, line 5, leave out from "section 1(1)" to the end of line 6 and insert

"may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament."

This would require regulations implementing the Agreement on Government Procurement to be subject to the affirmative resolution procedure.

This amendment is a simple but vital first attempt to restore democracy to the Trade Bill. It is simple because it replaces the negative resolution procedure the Government wish to use for future regulations under paragraph 2(1) of schedule 2 with an affirmative resolution procedure. It is vital because, without that, the Government have carte blanche to introduce regulations to implement the obligations arising from our independent membership of the GPA without the slightest hint of anything resembling parliamentary scrutiny. While the UK is a member of the World Trade Organisation in its own right and will continue to be so after Brexit, we are a member of the WTO's plurilateral government procurement agreement only by virtue of our EU membership. We know that the Government will have to initiate a separate parliamentary procedure under the Constitutional Reform and Governance Act 2010 to prepare for the UK to rejoin the GPA in its own right. I am pleased the Minister made the commitment in our first line-by-line session last Thursday that there will be a vote in Parliament to decide on the terms under which we rejoin the GPA.

Greg Hands: I thank the hon. Gentleman for giving way. That is not a correct assessment of what I said on Thursday. I said we would allow the power for Parliament to bring forward a vote under the Act. It is clearly stated in *Hansard*.

Barry Gardiner: Good Lord, Mr Davies, it's a jolly good job I have an extract from the *Hansard* here. I will press on and then quote from it.

CRAGA does not require there to be a debate or a vote on any treaty laid before Parliament under its terms, as has been repeatedly confirmed by the House of Commons Library via an expert witness from the Hansard Society and by everybody else who has read the Act or knows what it says. Yet, it certainly leaves the possibility open for Government to hold that vote if they are prepared to do so. Again, I am pleased the Minister reaffirmed last week not only that it is possible under CRAGA for the Government to bring forward a vote on the UK's terms of entry into the GPA, but that

"the terms on which the UK enters the GPA in our own right will be subject to a separate vote in Parliament."—[*Official Report, Trade Public Bill Committee*, 25 January 2018; c. 131.]

Those are the words the Minister actually used. I am surprised he wants to cavil about them now. As he knows, our dissatisfaction with CRAGA is that it includes no requirement for a debate or a vote on a treaty laid before Parliament under its provisions. We are dependent on the good will of the Government as to whether Parliament is granted or denied the opportunity for a vote.

In this instance, I thought the Government had confirmed that there will be a vote, not that there might be, depending on the Labour party, so we look forward to the Government introducing that debate in Government time. However, that in no way deals with the broader issue of why Parliament should be dependent on the Government's good will to have the opportunity to exercise its rights to due democratic process.

2.45 pm

Faisal Rashid: It has been widely documented that the use of the negative resolution procedure the Bill proposes affords Members less opportunity for scrutiny in the House than is currently enjoyed by Members of the European Parliament. Indeed, Jude Kirton-Darling MEP told the Committee in no uncertain terms that the Bill is

"an enormous step back in democratic oversight of trade agreements."—[*Official Report, Trade Public Bill Committee,* 23 January 2018; c. 43, Q86.]

Does my hon. Friend therefore agree that, for the Government to meet their commitment that the Bill will replicate existing arrangements as closely as possible, they must support the amendment to ensure the opportunity for scrutiny enjoyed by Members is closer to that currently enjoyed by MEPs?

Barry Gardiner: Indeed—my hon. Friend is right. Many Members on both sides of the House think it a travesty that we are afforded less opportunity to scrutinise things and less transparency than is afforded to our colleagues in the European Parliament.

On the agreement on government procurement, once we have had our opportunity to debate and vote on the terms under which we will rejoin it, the Government will then lodge our annexes with the WTO. The next stage is to issue the regulations that will implement the terms of our accession to the GPA, and then, in the years thereafter, to make changes to our domestic legislation that reflect the accession of new parties to the GPA or the withdrawal of any countries that decide to leave it.

It is important to note that that is not a temporary power covered by a sunset clause, as with the international trade agreements in clause 2. This is a permanent power for the Government to issue regulations implementing

the UK's obligations under the GPA into the indeterminate future—for as long as the WTO remains and the GPA is one of its constituent agreements. When we look at the fine detail of the Bill, we yet again discover that it is not a temporary little Bill about rolling over existing agreements; it actually has permanent, lasting effect. The roll-over powers could give Ministers the powers in perpetuity, under the Henry VIII provision.

We hear that the Bill is small, necessary, timely and time-limited, but in actual fact it is not. Our amendment 13 seeks to replace the negative resolution procedure, which the Government wish to apply to clause 1(1), with the affirmative procedure. I will remind the Committee of what that means so that we have a proper understanding of what we are talking about in this context, because it will also be essential to several later amendments that we will bring forward to other parts of the Bill.

The scrutiny procedure for delegated legislation in the House of Commons has come in for intense criticism in the context of the European Union (Withdrawal) Bill. That criticism is well merited. The Hansard Society's expert report, "Taking Back Control for Brexit and Beyond", lifted the veil on just how badly the system is failing to deliver the necessary scrutiny of secondary legislation at precisely the moment we need full confidence in it as we rebuild our system of checks and balances for the post-Brexit future. That report does not make pleasant reading.

The negative resolution procedure the Government propose for regulations under clause 1(1) is the least rigorous of all parliamentary procedures available. Secondary legislation subject to the negative resolution becomes law automatically once it has been laid before Parliament and has remained unchallenged for the requisite number of days—no need for a debate, no call for a vote. MPs may pray against any regulation by means of an early-day motion, but there is no obligation for the Government to schedule parliamentary time to debate that prayer.

The convention is that prayers made by Her Majesty's official Opposition should receive parliamentary time for a debate, yet even then there is no guarantee that the convention will be respected. In the 2015-16 parliamentary Session, the Leader of the Opposition tabled a dozen prayer motions for debate—five were granted. Of the 585 negative instruments laid before Parliament in that session, only 3% were even debated. In the following parliamentary Session, fewer than one in 100 statutory instruments subject to the negative resolution procedure were debated at all.

The main point of the negative resolution procedure is to allow the Government to have their way without any need to bother parliamentary democracy, and it has been spectacularly successful. The last time a negative instrument was successfully annulled in the House of Commons was the Paraffin (Maximum Retail Prices) (Revocation) Order in 1979. I think that tells the story about what is intended by making these provisions subject to the negative resolution procedure.

Faisal Rashid: Almost every individual who has appeared before this Committee over the past week, from business leaders to academics, civil activists and lawyers, has told us that more needs to be done by way of parliamentary scrutiny in this Bill. If the Government will not support these amendments, what good reason do they have to ignore the recommendations of these individuals?

Barry Gardiner: Again, my hon. Friend puts it very succinctly and very well.

The delegated powers memorandum argues that the negative resolution procedure is appropriate to implement the UK's obligations as an independent member of the GPA. It argues that it would be inappropriate to demand primary legislation to bring in the legislative changes necessary to reflect our new status as an independent GPA member, as this could introduce a significant delay in the proceedings.

Labour Members agree; we are not opposing the Government on that point. Primary legislation would be inappropriate to implement our obligations under the GPA once we had fully debated the terms on which we were joining the agreement, as the Minister promised us last Thursday that we will. Yet the issue here is not primary versus secondary legislation; it is negative versus affirmative in respect of the resolution procedure that governs the secondary legislation.

We simply do not believe that the negative procedure can be appropriate, precisely because of the lasting damage that could be done to contractors currently providing councils with goods and services if the regulations about Government procurement are made wrongly. Nor do we accept the Government's contention that they must be allowed to use the negative resolution procedure because of time pressures inherent in the GPA itself. It is entirely spurious to suggest that the 30-day period between depositing the UK's instrument of accession to the GPA and the accession coming into force is in any way coterminous with the drafting of a statutory instrument and its passage through Parliament.

The guidance on drafting statutory instruments issued by the Government Legal Service recommends allowing an absolute minimum of 22 weeks for the very simplest of negative instruments, with more complex ones requiring anything up to 61 weeks from their inception to the time they come into force—that is, well over year. Affirmative resolution instruments require only marginally longer, depending again on how complex they are—the Government Legal Service suggests allowing 26 to 67 weeks. In both cases, the process requires many months of planning beyond the 30-day period stipulated in the GPA. Government officials will have had to start work on the secondary legislation months in advance of depositing the UK's accession instruments with the WTO, and they can just as easily factor in an affirmative resolution procedure as they can a negative one.

When it comes to the future accession of other WTO members to the GPA, which may well happen, the situation is even more acute. Here, Members of Parliament will have had no opportunity to consider any of the ramifications of opening up our public procurement contracts to new countries. So the only chance we will have of subjecting those new regulations to any scrutiny will come through the procedure that we enshrine in this Bill.

The WTO lists 10 countries that are in the process of acceding to the GPA: Albania, Australia, China, Georgia, Jordan, the Kyrgyz Republic, Oman, Russia, Tajikistan and the former Yugoslav Republic of Macedonia. Five other WTO members have undertaken commitments in their WTO accession protocols to initiate accession to the GPA: Afghanistan, Kazakhstan, Mongolia, Saudi Arabia and the Seychelles. If and when they do accede, the UK will need to open up its Government procurement

[Barry Gardiner]

contracts to suppliers from every one of those countries. Once again, we agree with the Government that it would be overly burdensome to require new primary legislation every time another country accedes to the GPA. We are not asking for that. But we disagree that new Government regulations to implement our obligations should just be passed through on the nod. That is why we are arguing for the affirmative procedure in this case too.

Once again, the Government's argument that we are constrained by the 30-day period between a country's accession and our having to grant that country access to the UK's public procurement market is entirely spurious. We will have been party to the negotiations surrounding their accession for months beforehand, giving Government officials ample time to prepare the requisite instrument for either negative or affirmative resolution.

This is a blunder. Even where a statutory instrument is subject to the affirmative resolution procedure, the scrutiny that it undergoes is still remarkably light. MPs who have previously been assigned to Delegated Legislation Committees—and there will be many in this House—know they are not encouraged by the Whips to engage and speak. The affirmative resolution procedure has been called farcical and a waste of time. The Hansard Society notes, not surprisingly, that this system is "not fit for purpose". It concludes with the stinging rebuke to all of us who are responsible for the proper functioning of Parliament that

"MPs can no longer be indifferent to the inadequacies in the system. They must now finally take seriously their democratic responsibility for delegated legislation."

That is why the Labour party has tabled amendments to the Bill calling for an upgrading of the process for parliamentary scrutiny in respect of regulations stemming from our new trade obligations. As we have noted repeatedly, those obligations are serious. They are binding commitments made in international treaties that cannot easily be repealed. Domestic legislation can be repealed much more easily. If there was ever an example of secondary legislation crying out for proper parliamentary scrutiny and oversight, this is it. For the regulations necessary to implement obligations arising from the UK's independent membership of the GPA, we consider the affirmative resolution procedure to be appropriate and proportionate. However imperfect the system is, at least the affirmative procedure provides Members of Parliament with the possibility of a debate and a vote. It is then up to us to make proper use of that opportunity.

Having heard the objections of such an independent body as the Hansard Society, I hope Government Members will agree with us—on this amendment at least—and support it.

Greg Hands: The UK currently participates in the government procurement agreement, known as the GPA, through our EU membership. The GPA offers UK businesses guaranteed access to approximately £1.3 trillion per annum of global public contract opportunities. We intend to remain in the GPA with the same rights and obligations that we currently enjoy as part of the European Union. Those were negotiated by the EU on behalf of member states for the 1994 GPA. The 2012 revised GPA was negotiated by the EU and scrutinised by the European scrutiny Committees in Parliament.

The power in clause 1 is a narrow one designed to allow us to implement the GPA as an independent member, as well as to reflect new parties joining and crucially—the hon. Member for Brent North rather overlooked this—to allow existing parties to withdraw from it. It will be a case of the UK using clause 1 to reflect having a new status within an existing, established agreement on procurement.

3 pm

We need to be able to use the power quickly, so that UK businesses can continue to benefit from guaranteed access to an annual global procurement market worth £1.3 trillion. Parliament will have the opportunity to scrutinise the terms of the UK's independent membership through the CRAG process. That process gives this House the power to consider, and where it felt this was appropriate, to block the UK's ratification of the GPA.

I would like to clear up what I think is a misinterpretation by the hon. Member for Brent North of our exchanges last Thursday. I have conveniently acquired a copy of *Hansard.* I said:

"in other words, it is possible to bring a vote in Parliament".

That does not say that there will be a vote in Parliament. We all know that is how the negative procedure works. It is possible to bring a vote in Parliament on the terms under which the UK will join the GPA.

The hon. Member for Brent North intervened, seeking clarification. I gave him that clarification. I repeated:

"That is why I was careful to clarify that it is possible to bring forward a vote on the UK's terms of entry into the GPA."

That is not guaranteeing a vote; that is saying that it is possible to have a vote.

Barry Gardiner: I agree with the Minister's interpretation of what he has just read out. Does he accept that he also said the following:

"the terms on which the UK enters the GPA in our own right will be subject to a separate vote in Parliament"?—[*Official Report, Trade Public Bill Committee,* 25 January 2018; c. 131.]

Greg Hands: Hence, the clarification, twice over, to be absolutely precise how that vote would work. I know the hon. Gentleman has attacked the negative resolution procedure, but I do not remember any such exhortation when he was a Minister under Tony Blair—I did not listen to every single thing he said in those years, but I do not recall that. I think he would have troubled the scorers if he had attacked such a procedure at the time under CRAG, which as we know is an Act of Parliament introduced by the last Labour Government.

The hon. Member for Brent North confirmed last week that he did indeed vote for CRAG. He said it was important in the days when the treaties in question had already been scrutinised by the EU and scrutiny was also passed down to

"this Parliament, where the European Scrutiny Committee…would examine forensically the contents passed from Europe".—[*Official Report, Trade Public Bill Committee,* 25 January 2018; c. 149.]

I can reassure the hon. Gentleman that the revised GPA in 2012 went through the very process he described to the Committee and the very process that he voted for in 2010.

The hon. Gentleman asked why the GPA power is not time-limited. The answer is that new accessions to the GPA are covered by the clause to ensure that the

UK does not breach its own GPA commitments. It is also essential to have the power to reflect withdrawals to ensure that withdrawing parties do not continue to enjoy guaranteed access to UK procurement markets. I will speak in more detail about withdrawals from the GPA.

The hon. Gentleman asserted that the GPA power continues into perpetuity, including the Henry VIII power. There is no Henry VIII power in clause 1, which allows for the implementation of the GPA. The powers in clause 1 are narrow in scope. They are designed to allow the UK to make legislative changes that reflect its new status as an independent member but, none the less, as a member of an existing and settled agreement.

The UK needs to use the power in clause 1 quickly to prevent UK businesses from losing guaranteed access to valuable procurement markets. The revised GPA has already been scrutinised by the EU and the European Scrutiny Committee, using the powerful microscope the hon. Gentleman described last week and for which he voted not so long ago.

Faisal Rashid: Last Thursday my hon. Friend the Member for Brent North spoke of the emails members of this Committee had received from members of the public urging them to amend this Bill to protect our democracy. The number of these emails in my inbox—and, I am sure, in all other Members' inboxes—has reached just over 5,000. If the Government will not support these amendments to introduce at least some degree of parliamentary scrutiny, what good reason can they give the 5,000 individuals who have taken time to contact us for ignoring their concerns?

Greg Hands: I thank the hon. Gentleman for his intervention, because it allows me to put on the record something that concerned all members of this Committee when they logged on last Tuesday and discovered, seemingly, a large number of emails—hundreds and, in one case, 1,200—about this Bill. I am sure he, in the course of being a good constituency MP, would seek to check whether those emails were, indeed, from his constituents. I have to report that my colleague who received 1,200 such emails discovered, following further examination by his very diligent parliamentary staff, that precisely four of those 1,200 emails came from his constituents.

I would say to the hon. Gentleman that, in respecting parliamentary rules, I would have a close look at those emails and ask where they are coming from. Is the hon. Gentleman, indeed, answerable to these people? All of them will have a Member of Parliament in this House who will be the right person to direct those emails to. Getting 5,000 emails from across Britain in relation to one issue in this Parliament need not necessarily be representative of a wider move against this Bill, which is a technical Bill all about the continuity of our existing trading arrangements.

Faisal Rashid: I thank the Minister for giving me time. This is a national issue; it is not just a constituency-based issue. I understand that there is parliamentary procedure and that we do not have to reply to all those emails if they are not from our constituents. However, surely it tells us, as parliamentarians, that the problems and issues among the general public and in the business environment are quite immense.

Greg Hands: I thank the hon. Gentleman for his intervention. We might be going too far down this road. I do not want to sound in any way condescending to a new Member, and my only advice to him, having been a Member in this House for 12 years, would be that the receipt of 5,000 emails from 650 constituencies is an average of nine emails per constituency. If he is suggesting that we make public policy, and that each of us makes our policy decisions, based on the opinions of nine constituents, I do not believe that would be a helpful road for us to go down.

Returning to the GPA, the UK's independent membership will be considered under the CRAG process, meaning Parliament will be able to scrutinise the terms of the UK joining the GPA before the GPA can join, as I referred to in the debate on Thursday. The Government therefore believe that the negative resolution procedure provides an appropriate level of parliamentary scrutiny for the power to implement the GPA in clause 1.

Furthermore, the Opposition amendment would also apply the affirmative resolution procedure when the UK uses clause 1 to make regulations to reflect new parties joining the GPA or—this is a very important point—existing parties withdrawing from it. In the case of new and withdrawing parties, it is important that the UK is able to respond quickly and flexibly. Once a new party deposits its instrument of accession, there is a period of only 30 days before that accession comes into force. The UK will then be under an immediate obligation to provide that new party with guaranteed access to UK procurement opportunities covered by the GPA. If the UK failed to offer the new party this guaranteed access, it would be in breach of its GPA commitment. On the other hand, a party to the GPA can decide to withdraw unilaterally, and where a party notifies the GPA committee that they intend to withdraw, they will cease to be a GPA member just 60 days later. Therefore, it is vital we are able to react quickly to such a notification.

If the power to amend UK legislation to reflect parties withdrawing from the GPA were subject to any affirmative procedure, the UK might not be able to legislate in time to remove the party by the 60-day time limit, which, of course, could result in the UK contracting authorities continuing to give guaranteed access to UK markets to a party that is leaving or had already left the GPA, and was therefore no longer entitled to access.

Barry Gardiner: I am listening carefully to the Minister. Does that 60-day timescale for countries seceding from the GPA mean that in those cases the Minister will not be able to fulfil the guidelines for statutory instruments that I referred to? If that is the case, it suggests that at an absolute minimum a statutory instrument, even on the negative procedure that he proposes, would only be for 22 weeks and at the outside for 60 weeks. Is he confirming to the Committee that in those circumstances, the guidelines laid down by the Government and Parliament in this area, even for the negative procedure, would not apply?

Greg Hands: I want to make sure of the answer to the hon. Gentleman's question. Perhaps I can pledge to write to him, copying in other members of the Committee and you, Mr Davies, on precisely how this fits in with our statutory instrument procedures.

Barry Gardiner: Absolutely.

Greg Hands: To conclude, the withdrawing party would have no obligation to give UK businesses reciprocal access to its procurement markets, and it is of course vital that Parliament has the opportunity to scrutinise new accessions to the GPA.

I reassured the Committee last week and earlier today that we want to ensure a clear and significant role for Parliament in scrutinising future trade agreements. The provisions will enable those agreements to be completed effectively and efficiently, while respecting due process in Parliament. New accessions to the GPA will be included within that scrutiny process. That will ensure that Parliament can scrutinise new accessions during accession negotiations. The power that we are discussing will be used after that scrutiny, and approval of the accession, so I invite the hon. Member for Brent North to withdraw the amendment.

Barry Gardiner: I am grateful to the Minister for his assurance that he will write to the Committee, but I will press the amendment to a vote, because it makes an important point.

Question put, That the amendment be made.

The Committee divided: Ayes 9, Noes 10.

Division No. 13]

AYES

Bardell, Hannah	McMorrin, Anna
Brown, Alan	Rashid, Faisal
Cummins, Judith	Smith, Nick
Esterson, Bill	Western, Matt
Gardiner, Barry	

NOES

Badenoch, Mrs Kemi	Pursglove, Tom
Hands, rh Greg	Stewart, Iain
Hughes, Eddie	Vickers, Martin
Keegan, Gillian	Whittaker, Craig
Prisk, Mr Mark	Wood, Mike

Question accordingly negatived.

Barry Gardiner: I beg to move amendment 16, in schedule 2, page 12, line 5, leave out "or 2(1)".

This is linked to amendments 14, 15, 17, 19 and 20.

The Chair: With this it will be convenient to discuss the following:

Amendment 14, in schedule 2, page 12, line 6, at end insert—

"(1A) A statutory instrument containing regulations of a Minister of the Crown under section 2(1) in respect of a free trade agreement which meets the criteria under section 2(3) may not be made unless all provisions of paragraph 2A have been satisfied."

This amendment is linked to amendments 15 and 16, which would require the United Kingdom's free trade agreements with third countries which already have a corresponding agreement with the European Union to be subject to a super-affirmative resolution procedure prior to ratification.

Amendment 15, in schedule 2, page 12, line 17, at end insert—

"Scrutiny of corresponding agreements: super-affirmative procedure

2A (1) Before a free trade agreement which meets the criteria under section 2(3) and to which the United Kingdom is a signatory may be ratified, the Secretary of State must lay before Parliament—

(a) a draft order to the effect that the agreement be ratified, and

(b) a document which explains why the Secretary of State believes that the agreement should be ratified.

(2) The Secretary of State may make an order in the terms of the draft order laid under subparagraph (1) if—

(a) after the expiry of a period of 21 sitting days after the draft order is laid, no committee of either House of Parliament has recommended that the order should not be made, and

(b) after the expiry of a period of 40 sitting days after the draft order is laid, a motion in the terms of the draft order is approved by a resolution of each House of Parliament.

(3) If a committee of either House of Parliament recommends that an order should not be made under subparagraph (2), the Secretary of State may, after the expiry of a period of 60 sitting days after the draft order is laid, make a motion for a resolution in each House of Parliament in the terms of the draft order.

(4) If a motion in the terms of the draft order is approved by a resolution of each House of Parliament under subparagraph (2)(b) or (3), the Secretary of State may make an order in the terms of the draft order.

(5) A free trade agreement to which this paragraph applies shall not be deemed to be a treaty for the purposes of Part 2 of the Constitutional Reform and Governance Act 2010.

(6) In section 25 of the Constitutional Reform and Governance Act 2010, after subsection (1)(b), at end insert—

'but does not include a free trade agreement to which paragraph 2A of Schedule 2 to the Trade Act 2018 applies.'"

This would require the United Kingdom's free trade agreements with third countries which already have a corresponding agreement with the European Union to be subject to a super-affirmative resolution procedure prior to ratification.

Barry Gardiner: Let me state for the record that I am grateful to you, Mr Davies, and to the Clerks for agreeing to the reordering that we requested, so that amendments 14 and 15 could be selected with amendment 16, and debated ahead of amendments 17 and 19. I will try to make it clear why that is necessary.

3.15 pm

I touched on the central problem of the Bill in my opening remarks in Committee when we first began our line-by-line examination of it. The Bill provides for the Government to issue regulations that will implement the UK's new trade agreements with countries that currently have a trade agreement with the EU. The new UK trade agreement need bear no resemblance whatever to the EU agreement that it replaces; the Bill contains nothing requiring the UK agreement to match or mirror the EU's existing agreement in any way, shape or form. It can be a wholly new departure with wholly new obligations. All the Bill requires is that the other signatory and the European Union were signatories to a trade agreement before Brexit took effect.

As we know from our witness sessions, there is every possibility that our trading partners will seek to use the negotiations on a new agreement with the UK to reopen any areas where they were unhappy with the outcome of their negotiations with the European Union. That is precisely what South Africa's Trade Minister, Rob Davies, confirmed last year when he said that South Africa would be looking to expand the agricultural trade quotas and revisit the sanitary and phytosanitary measures that were negotiated as part of the EU's economic partnership agreement with the Southern African Development Community.

Nor will the new UK agreement have undergone any process of scrutiny akin to the process that currently pertains, in which both the EU and our European Scrutiny Committee examine and debate trade agreements as they are being negotiated, as well as when they are being prepared for signing and ratification. Instead, the Government must simply lay the text of any new agreement before Parliament for 21 sitting days, as we have discussed extensively.

Using the power granted by the Bill, the Government can issue implementing regulations by means of the negative procedure, effectively removing Parliament from the process. That is why the Library briefing, which I cited earlier, is undeniably correct in stating bluntly that the Bill

"seeks to minimise Parliament's role".

Rather than repeating what I said, I will quote the right hon. and learned Member for Beaconsfield (Mr Grieve); he asked the Secretary of State for International Trade:

"does the delegated powers memorandum not make it absolutely clear that the powers are broad enough to enable not just the implementation of these agreements, but their substantial amendment, including the creation of new obligations? Does that not then make it sensible—I urge him to do this—for the Government to look, as the Bill progresses, at ways to ensure that those can be properly scrutinised? That is because the methods we currently have of the European Scrutiny Committee and the European Parliament will no longer exist. That is a relevant issue for this House, and if the Government were to look at it in a sensible light, the Bill would be improved."—[*Official Report*, 9 January 2018; Vol. 634, c. 218.]

I could not have put it better. The right hon. and learned Member for Beaconsfield is absolutely right. This is the moment for the Government to look at the issue in the sensible light that he proposed, and to make those necessary improvements to the Bill.

Schedule 2(2) is where the issue comes to a head, as it deals with parliamentary scrutiny of regulations that will implement the new UK trade agreements designed to replace those we have by virtue of being in the EU. Our amendment 15, the substantive amendment in this group, speaks directly to our desire to ensure that Parliament can subject the new free trade agreements to proper scrutiny.

I point out again that amendment 15 speaks to the UK's new free trade agreements—the significant, comprehensive trade agreements that are notifiable under article XXIV of the general agreement on tariffs and trade and article V of the general agreement on trade in services. It does not suggest that we need to adopt such a process in respect of the other trade agreements that remain undefined in the Bill, namely mutual recognition agreements and the like. We are concerned with major free trade agreements that could have lasting social and economic impacts—precisely the type of treaty that has aroused public anger and resistance to the free trade agenda over the past few years.

Amendment 15 introduces a super-affirmative procedure to the process prior to ratification. This is the only procedure available to Parliament that ensures a proper level of scrutiny, guaranteeing both Houses of Parliament a vote on whether to approve the ratification of a new treaty. It provides for a Committee of either House to recommend rejection of the treaty; that goes some way towards replacing the lost powers of the European Scrutiny Committee. As per normal parliamentary custom, the precise function of such a Committee would be detailed in the Standing Orders.

We have deliberately constructed this amendment in such a way that the process applies prior to ratification. It would require the Government to lay before Parliament a draft order under which the trade agreement in question would be ratified. During the period covered by the Bill's sunset clause, any UK free trade agreements that met the criteria of clause 2(3) would go through this process, rather than through CRAGA.

Once the new UK trade agreement has undergone this process of enhanced scrutiny, it will be possible to relax the level of scrutiny for the regulations needed to implement the trade agreement, as the treaty itself will have been through sufficient scrutiny prior to its ratification. This is why we needed to reorder the groups of amendments so as to take amendment 15 before amendment 19. If amendment 15 is voted through, we will not need amendment 19, as the scrutiny will already have taken place prior to ratification.

If, on the other hand, the Government vote down amendment 15, we will have failed to introduce a proper process of scrutiny prior to ratification. In that instance, trade agreements will have been ratified with a minimum of parliamentary involvement. We will therefore need to rely on scrutiny of the implementing regulations. We would then press to a vote amendment 19, which provides for the super-affirmative procedure.

Faisal Rashid: The super-affirmative procedure closely replicates the powers that MEPs enjoy in the European Union, so does my hon. Friend agree that if the Government are to meet their commitment that the Bill will replicate existing arrangements as closely as possible, they must support the amendment?

Barry Gardiner: Again, my hon. Friend makes the point about the discrepancy between the scrutiny available to us here in this sovereign Parliament and the scrutiny available to members of the European Parliament. It would seem entirely at odds with the Government's stated purpose for the European Union (Withdrawal) Bill if we ended up having fewer scrutiny powers than Members of the European Parliament. That would seem to be a travesty.

I look forward with perhaps slightly more than the usual expectation to the Minister's response to the amendment, given that this is the issue on which not only the right hon. and learned Member for Beaconsfield spoke on Second Reading, but on which several other hon. Members from across the House registered their profound concern. This is the moment when we discover whether the Government are prepared to heed the calls of right hon. and hon. Members alike and look at the Bill in a much more sensible way.

Greg Hands: Let me reassure hon. Members that I listened very carefully to what the hon. Member for Brent North said. First, let me repeat that the majority of free trade agreements within the scope of the Bill have already been ratified, and Parliament had the opportunity to scrutinise them during ratification. Parliament's European Scrutiny Committee also scrutinised these agreements when they were negotiated, included, signed and provisionally applied. They had, of course, already gone through the European Parliament process as well, to which the hon. Member for Warrington South helpfully drew our attention.

[Greg Hands]

The Government have made clear their intention to ratify by exit date all the EU free trade agreements that currently provisionally apply, including the EU-Canada comprehensive economic and trade agreement, and the economic partnership agreement with the Southern African Development Community, or SADC.

The hon. Member for Brent North drew attention to the comments of a South African Minister. To be honest, I cannot remember precisely whom he referred to, but for clarity I refer him to the memorandum of understanding signed by the Secretary of State for International Trade in South Africa in either August or September. Both parties specifically agreed to transition the agreement and maintain continuity, without substantive change. Whatever the hon. Gentleman's South African said, the memorandum of understanding is absolutely clear in that regard. As I said to the International Trade Committee last week, 70-plus countries have agreed in principle to maintain continuity in trading arrangements. For example, we signed a similar memorandum with the CARIFORUM group to do precisely that.

Parliament's scrutiny of these agreements, which have already been scrutinised, will be guaranteed by the process under the Constitutional Reform and Governance Act 2010. As we have made clear, this is a technical exercise to secure continuity in our existing trading arrangements, not an opportunity to renegotiate the terms of existing agreements. That means that further scrutiny of those agreements, the benefits of which are already felt by businesses and consumers, is unnecessary. As we have made clear, we want Parliament to play a vital role in the scrutiny of future trade agreements that are not covered by the Bill, but that is for a separate occasion. We made clear in the trade White Paper and in this Committee on Thursday that our future trade policy must be transparent and inclusive.

Faisal Rashid: We heard from many witnesses last week that so-called roll-over agreements not only will be legally distinct from our existing EU agreements, but are likely to be substantially different in their terms. Does the Minister agree that those new agreements need to be subjected to adequate scrutiny and parliamentary oversight, and that a super-affirmative procedure is appropriate?

Greg Hands: I thank the hon. Gentleman for his intervention. I very much appreciate the way, as a new Member, he is getting stuck into the Bill, but I remind him that, in terms of securing the continuity of agreements, more than 70 countries have now agreed that there will not be substantive change. I mentioned South Africa, with which we have a memorandum of understanding saying that. There is no need to re-scrutinise agreements that are substantively the same and have already been through the proper scrutiny processes of both Houses. That is why we made clear in the trade White Paper and in this Committee on Thursday that our future trade policy must be transparent and inclusive, and that Parliament will be engaged throughout the process. I therefore ask the hon. Member for Brent North to withdraw amendment 16.

Barry Gardiner: We intend to press amendment 16 to a vote.

Question put, That the amendment be made.

The Committee divided: Ayes 7, Noes 10.

Division No. 14]

AYES

Cummins, Judith	Rashid, Faisal
Esterson, Bill	Smith, Nick
Gardiner, Barry	
McMorrin, Anna	Western, Matt

NOES

Badenoch, Mrs Kemi	Pursglove, Tom
Hands, rh Greg	Stewart, Iain
Hughes, Eddie	Vickers, Martin
Keegan, Gillian	Whittaker, Craig
Prisk, Mr Mark	Wood, Mike

Question accordingly negatived.

Barry Gardiner: I beg to move amendment 17, in schedule 2, page 12, line 6, at end insert—

"(1A) A statutory instrument containing regulations of a Minister of the Crown under section 2(1) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament."

This would require regulations implementing international trade agreements to be subject to the affirmative resolution procedure.

The Chair: With this it will be convenient to discuss amendment 19, in schedule 2, page 12, line 6, at end insert—

"(1A) A statutory instrument containing regulations of a Minister of the Crown under section 2(1) may not be made except in accordance with the steps in subparagraphs (1B) to (1E).

(1B) The Minister shall lay before Parliament—

(a) a draft of the regulations, and

(b) a document which explains why the Secretary of State believes that regulations should be made in terms of the draft regulations.

(1C) The Minister may make an order in the terms of the draft regulations laid under subparagraph (1B) if—

(a) after the expiry of a period of 21 sitting days after the draft regulations are laid, no committee of either House of Parliament has recommended that the regulations should not be made, and

(b) after the expiry of a period of 60 sitting days after the draft regulations are laid, the draft regulations are approved by a resolution of each House of Parliament.

(1D) If a committee of either House of Parliament recommends that the regulations should not be made, the Secretary of State may—

(a) lay before Parliament revised draft regulations, or

(b) after the expiry of a period of 40 sitting days after the revised draft regulations are laid, make a motion for a resolution in each House of Parliament for approval of the draft regulations.

(1E) If a motion under subparagraph (1D)(b) is approved by a resolution of each House of Parliament, the Secretary of State may make the regulations."

This would require regulations implementing international trade agreements to be subject to the super-affirmative resolution procedure.

Barry Gardiner: Amendment 19 would require any regulations implementing new UK trade agreements to be subject to a super-affirmative procedure. If the Government are not willing to allow us the super-affirmative procedure prior to ratification, as they have just shown they are not, we will be compelled to argue for it

afterwards. Clearly, we would prefer to keep the stable door shut rather than having to retrieve the horse after it has bolted, but if we could at least provide for some parliamentary process subjecting implementing regulations to scrutiny, that would be better than nothing. As it is presently constituted, nothing is precisely what the Bill offers.

The procedure mirrors that which we seek to introduce with amendment 15: namely, in this case, a proper process granting Parliament the power to subject implementing regulations to scrutiny. The provisions are drawn from existing primary legislation that provides for enhanced scrutiny in other contexts. Once again, the key elements of them are that a Committee of either House can object to the regulations, and that both Houses must give their approval before the Secretary of State can proceed with making the regulations.

3.30 pm

Amendment 17 is, in a sense, our fall-back position should amendment 19 not succeed. I cannot believe that the Government will risk the ire of right hon. and hon. Members from the Conservative party as well as the Opposition parties by turning down every single attempt to introduce scrutiny provisions to the Bill. We would have preferred something altogether more rigorous than just intervening at the late stage of implementing regulations, but if that is all that the Minister is prepared to leave us with, we will have to satisfy ourselves with that meagre pottage. In the relevant Delegated Legislation Committee we would then be able to have a debate and vote when the implementing regulations were submitted.

Greg Hands: I think we are potentially about to have quite a similar debate to the one that we just had, but let me be as succinct as I can. I remind Members that this power will be used only to introduce regulations that reflect current obligations in our EU trade agreements. That means that we are not seeking to change the effects of our existing trade agreements through the power. The agreements have already been examined by Parliament as part of its regular scrutiny of EU business. Ratified free trade agreements have already been through the normal parliamentary scrutiny process for treaty ratification.

Barry Gardiner: The Minister said that the Government are not proposing to change the provisions in any of the treaties. I think he said earlier in our debate that 71 countries had already agreed. Could he just clarify for the Committee once and for all, because he has failed to do so thus far, whether that includes Norway, Switzerland and Turkey?

Greg Hands: I thank the hon. Gentleman, but we have already covered that ground as well. The agreements with Norway, Turkey and Switzerland will inevitably be dependent on our future trading relationship with the European Union, because of the unique way that each of those countries operates in conjunction with the European Union.

The hon. Gentleman says that we are not proposing changes. It is just as important to recognise that more than 70 of our partners do not want substantive changes to the agreements either. Perhaps we need to put aside for a moment some of the ways in which the Bill operates, and think about what is in the interests of our trading partners. It is as much in their interests as ours to have continuity of the existing agreements. It is therefore not a surprise to me that more than 70 countries have said that they are not seeking substantive changes to the agreements.

Matt Western (Warwick and Leamington) (Lab): I appreciate the point that the Minister seeks to make. However, as he says, there are 70 of them and one of us. In any negotiation, the disadvantage is always with the minority. We are going to be in a very difficult position. One could well imagine—this point came up at the International Trade Committee last week—that the opportunity exists for those nations to renegotiate or, recognising the time pressure that we will be under, to make changes. Surely it should be for Parliament to consider any such change to a trade agreement, not for the Minister or a select few.

Greg Hands: The hon. Gentleman puts his question in a reasonable way. I know he is a member of the International Trade Committee and was there for the evidence session last Wednesday. However, it is not the case that we and the 70-plus countries are in some kind of plurilateral agreement. The number he talks about is the number of agreements, not the number of negotiating partners to that same agreement. Essentially, they would run the same risk that we would run if anyone were to want to renegotiate the agreement. The risk is that we would run out of time to have the transitioned agreement in place come the day that we leave the European Union. We have as much risk and as much downside as the counterpart does. That is the important thing to understand. The Government therefore consider the negative procedure to offer the appropriate level of further scrutiny over the operation of the power.

Turning to amendment 19, as we have made clear, the purpose of the Bill is to help maintain the effects of our existing trading arrangements as we leave the EU. It is vital that we secure that continuity without delay, to avoid disruption for businesses and consumers. That is why we are seeking a power that ensures that our transitioned trade agreements can be implemented in the nimblest and most efficient way possible, through the negative resolution procedure. A switch to the super-affirmative procedure would risk undermining that objective. Statutory instruments subject to the super-affirmative procedure may take even longer than using primary legislation to implement a transitioned agreement, which would therefore increase the risk of a cliff edge in our trading relationships.

Matt Western: Just to clarify—the Minister can correct me if I am wrong—the agreements will in many cases be trilateral because of our existing relationship with the EU and the relationship with the other country among the 70-plus the Minister mentioned. There is therefore an opportunity for that other country to make the negotiation or arrangement difficult. That is why we are seeking to put in place scrutiny in Parliament.

Greg Hands: I refer the hon. Gentleman to the comments I made earlier: none of the 70-plus countries that we have spoken to has said that it wants to do that. It would not be in their interests for them to do so, for reasons of maintaining continuity in our trade relations. That is very much in our and their interests.

[Greg Hands]

Let me finally remind the Committee that Parliament still has oversight of statutory instruments introduced under the negative resolution procedure, using well-established processes as outlined in CRAG. I therefore ask the hon. Member for Brent North to withdraw the amendment.

Barry Gardiner: We will press amendment 17 to a vote.

Question put, That the amendment be made.

The Committee divided: Ayes 9, Noes 10.

Division No. 15]

AYES

Bardell, Hannah	McMorrin, Anna
Brown, Alan	Rashid, Faisal
Cummins, Judith	Smith, Nick
Esterson, Bill	Western, Matt
Gardiner, Barry	

NOES

Badenoch, Mrs Kemi	Pursglove, Tom
Hands, rh Greg	Stewart, Iain
Hughes, Eddie	Vickers, Martin
Keegan, Gillian	Whittaker, Craig
Prisk, Mr Mark	Wood, Mike

Question accordingly negatived.

Amendment proposed: 19, in schedule 2, page 12, line 6, at end insert—

"(1A) A statutory instrument containing regulations of a Minister of the Crown under section 2(1) may not be made except in accordance with the steps in subparagraphs (1B) to (1E).

(1B) The Minister shall lay before Parliament—

(a) a draft of the regulations, and

(b) a document which explains why the Secretary of State believes that regulations should be made in terms of the draft regulations.

(1C) The Minister may make an order in the terms of the draft regulations laid under subparagraph (1B) if—

(a) after the expiry of a period of 21 sitting days after the draft regulations are laid, no committee of either House of Parliament has recommended that the regulations should not be made, and

(b) after the expiry of a period of 60 sitting days after the draft regulations are laid, the draft regulations are approved by a resolution of each House of Parliament.

(1D) If a committee of either House of Parliament recommends that the regulations should not be made, the Secretary of State may—

(a) lay before Parliament revised draft regulations, or

(b) after the expiry of a period of 40 sitting days after the revised draft regulations are laid, make a motion for a resolution in each House of Parliament for approval of the draft regulations.

(1E) If a motion under subparagraph (1D)(b) is approved by a resolution of each House of Parliament, the Secretary of State may make the regulations."—*(Barry Gardiner.)*

This would require regulations implementing international trade agreements to be subject to the super-affirmative resolution procedure.

Question put, That the amendment be made.

The Committee divided: Ayes 9, Noes 10.

Division No. 16]

AYES

Bardell, Hannah	McMorrin, Anna
Brown, Alan	Rashid, Faisal
Cummins, Judith	Smith, Nick
Esterson, Bill	Western, Matt
Gardiner, Barry	

NOES

Badenoch, Mrs Kemi	Pursglove, Tom
Hands, rh Greg	Stewart, Iain
Hughes, Eddie	Vickers, Martin
Keegan, Gillian	Whittaker, Craig
Prisk, Mr Mark	Wood, Mike

Question accordingly negatived.

Barry Gardiner: I beg to move amendment 20, in schedule 2, page 12, line 6, at end insert—

"(1A) A statutory instrument containing regulations of a Minister of the Crown under section 2(1) relating to an international trade agreement other than a free trade agreement which does not meet the criteria under section 2(4) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament."

This would require regulations implementing an international trade agreement which is not a free trade agreement and which does not correspond to a prior or existing EU agreement to be subject to the affirmative resolution procedure.

This is the final amendment in our series trying to introduce just a modicum of parliamentary scrutiny into the Bill. It refers to the last category of trade agreements that have not yet been covered in the previous amendments.

If hon. Members cast their minds back to amendment 3, which we presented in the first line-by-line sitting last Thursday, that amendment sought to expand the remit of the Bill to include not just agreements that correspond to existing EU agreements but those with countries where there is no prior EU agreement in place. The major set of amendments that I presented at that sitting sought to introduce a full process of preparation, debate and scrutiny up to the point of signature of free trade agreements within the category of comprehensive agreements that need to be notified under GATT article XXIV or GATS article V. Amendment 20 picks up on trade agreements that are not free trade agreements for the purposes of GATT article XXIV or GATS article V, and that do not correspond to an existing EU agreement. Without the amendment, they would not be covered anywhere in the expanded Bill as we envisage it.

We do not believe that it would be an appropriate use of parliamentary time to subject every new mutual recognition agreement to the full rigour of impact assessment and mandate-setting parliamentary scrutiny. We believe it would be enough to have the minimum scrutiny of the affirmative resolution procedure, which allows for a debate and vote where it is thought necessary, but which also allows for the swift passage of regulations through Parliament where they are clearly non-controversial.

I will point out here that some mutual recognition agreements and other agreements are potentially very controversial. In the case of mutual recognition agreements

with countries whose regulatory systems are radically different from our own, such as the United States, there could be huge pitfalls in allowing for mutual recognition where it could lead to products entering the UK market that have not been subjected to the rigorous tests that we demand in our jurisdiction. If anything, we are erring on the side of being too pragmatic in suggesting that those agreements be subjected to the affirmative resolution procedure only, seeing as the affirmative procedure can be open to the abuse I described earlier in my reference to the Hansard Society's report. At least we can take comfort in the fact that a Delegated Legislation Committee would have the power to hold the most controversial regulations up to scrutiny and subject them to a vote in Parliament, which would be a quantum leap from what the Bill currently offers.

Greg Hands: Clause 2 would limit the scope of agreements on which the power can be used to those where the other party had a free trade agreement signed with the EU before exiting. Amendment 20 would establish a procedure whereby the power is used in relation to agreements falling outside those parameters. As we do not wish to extend the scope of clause 2 to allow the power to be used in relation to more agreements, it follows that we do not need to apply a procedure to the implementation of such agreements. The amendment, therefore, is unnecessary in every way.

However, if the spirit of the amendment is to explore what constraints we have drafted into the clause 2 power, I am happy to provide reassurance to the Committee. As I have said before, the power can be used only in relation to free trade agreements with countries that have signed EU free trade agreements before exit day. A free trade agreement covers substantially all trade notifiable to the World Trade Organisation. To be clear, the power cannot be used to amend primary legislation except when that primary legislation is retained EU law. It cannot be used to implement a trade agreement between the United Kingdom and the European Union itself. Nor can it be used to extend or create new criminal offences or create new fees or charges.

The power has a five-year sunset clause from exit day. If the Government wish to extend this period, they may do so only with the permission of both Houses. We and our trading partners are clear that this will be a technical exercise to ensure continuity in trading relationships. It is not an opportunity to change or renegotiate the terms of these EU agreements. Therefore, I ask the hon. Member for Brent North to withdraw the amendment.

Barry Gardiner: I do not wish to shock the Committee, but we will not press the amendment to a vote. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

3.45 pm

Amendment proposed: 14, in schedule 2, page 12, line 6, at end insert—

"(1A) A statutory instrument containing regulations of a Minister of the Crown under section 2(1) in respect of a free trade agreement which meets the criteria under section 2(3) may not be made unless all provisions of paragraph 2A have been satisfied."—*(Barry Gardiner.)*

This amendment is linked to amendments 15 and 16, which would require the United Kingdom's free trade agreements with third countries which already have a corresponding agreement with the European Union to be subject to a super-affirmative resolution procedure prior to ratification.

Question put, That the amendment be made.

The Committee divided: Ayes 9, Noes 10.

Division No. 17]

AYES

Bardell, Hannah	McMorrin, Anna
Brown, Alan	Rashid, Faisal
Cummins, Judith	Smith, Nick
Esterson, Bill	Western, Matt
Gardiner, Barry	

NOES

Badenoch, Mrs Kemi	Pursglove, Tom
Hands, rh Greg	Stewart, Iain
Hughes, Eddie	Vickers, Martin
Keegan, Gillian	Whittaker, Craig
Prisk, Mr Mark	Wood, Mike

Question accordingly negatived.

Amendment proposed: 15, in schedule 2, page 12, line 17, at end insert—

"Scrutiny of corresponding agreements: super-affirmative procedure

2A (1) Before a free trade agreement which meets the criteria under section 2(3) and to which the United Kingdom is a signatory may be ratified, the Secretary of State must lay before Parliament—

(a) a draft order to the effect that the agreement be ratified, and

(b) a document which explains why the Secretary of State believes that the agreement should be ratified.

(2) The Secretary of State may make an order in the terms of the draft order laid under subparagraph (1) if—

(a) after the expiry of a period of 21 sitting days after the draft order is laid, no committee of either House of Parliament has recommended that the order should not be made, and

(b) after the expiry of a period of 40 sitting days after the draft order is laid, a motion in the terms of the draft order is approved by a resolution of each House of Parliament.

(3) If a committee of either House of Parliament recommends that an order should not be made under subparagraph (2), the Secretary of State may, after the expiry of a period of 60 sitting days after the draft order is laid, make a motion for a resolution in each House of Parliament in the terms of the draft order.

(4) If a motion in the terms of the draft order is approved by a resolution of each House of Parliament under subparagraph (2)(b) or (3), the Secretary of State may make an order in the terms of the draft order.

(5) A free trade agreement to which this paragraph applies shall not be deemed to be a treaty for the purposes of Part 2 of the Constitutional Reform and Governance Act 2010.

(6) In section 25 of the Constitutional Reform and Governance Act 2010, after subsection (1)(b), at end insert—

'but does not include a free trade agreement to which paragraph 2A of Schedule 2 to the Trade Act 2018 applies.'"—*(Barry Gardiner.)*

This would require the United Kingdom's free trade agreements with third countries which already have a corresponding agreement with the European Union to be subject to a super-affirmative resolution procedure prior to ratification.

Question put, That the amendment be made.

The Committee divided: Ayes 9, Noes 10.

Division No. 18]

AYES

Bardell, Hannah	Cummins, Judith
Brown, Alan	Esterson, Bill

Gardiner, Barry	Smith, Nick
McMorrin, Anna	
Rashid, Faisal	Western, Matt

NOES

Badenoch, Mrs Kemi	Pursglove, Tom
Hands, rh Greg	Stewart, Iain
Hughes, Eddie	Vickers, Martin
Keegan, Gillian	Whittaker, Craig
Prisk, Mr Mark	Wood, Mike

Question accordingly negatived.

Schedule 2 agreed to.

Schedule 3 agreed to.

Clause 4 ordered to stand part of the Bill.

Clause 5

THE TRADE REMEDIES AUTHORITY

Question proposed, That the clause stand part of the Bill.

Mr Mark Prisk (Hertford and Stortford) (Con): I will not detain the Committee for long, but it is important when we establish a new authority to step back. Some of these issues will be raised in debates on amendments, so I will not get too far into the detail.

I strongly support the creation of the Trade Remedies Authority. As our trade policy is slowly developed in the months and years to come, we will need it to be underpinned by a robust remedies regime. Certain characteristics of the authority are very important, and it would aid the interpretation of the Bill in due course if the Government's aims and intentions were set out on the record.

For an authority to be effective, it needs certain characteristics. First, it needs to be objective and evidence-based. I think that most Members would agree with that in general, but it becomes far more difficult when there is an acute case that is difficult in our constituencies or is of a totemic nature nationally. We need to be clear when we establish the authority that it should be objective and evidence-based in its deliberations and when advising Ministers.

Secondly, the organisation needs to have a broad base. It needs to be open and accessible. All stakeholders must feel that they are able to engage with the authority, and that they are listened to by its whole structure. We have heard examples of authorities in other countries. I simply say that I want to ensure that the consultation process includes not just the business world, but the workers whose jobs may well be threatened and consumers, whom we heard mentioned in evidence. I hope that the Minister can confirm that it will. Many of these issues require a balance between those two sides, and we need to ensure that we have such a balance. It is also important that the authority listens and is seen to listen. The characteristics I have touched on—objectivity, broadness and inclusivity—are important if the authority is to be recognised both here in the United Kingdom and by our trading partners abroad.

The third characteristic is efficiency—or timeliness, as some lawyers describe it. I always find it entertaining when lawyers describe timeliness. Efficiency is of course in tension with the idea of a broad consultation, but we are all aware that there will be cases where prompt action is required, so it is necessary to have good processes in place. Although those will clearly come later, it is important that we put that on the record at this stage, and we would benefit from hearing from the Minister about that.

The most important characteristic, however, is independence. We have heard on Second Reading and in Committee that we all want the authority to be independent and that, naturally, it should be at arm's length from the Government—the current Administration and future Administrations—for many years to come. That is right, but if it is to be effective, the authority also needs to be able to withstand the media and political pressures that will arise when individual cases come forward. We must ensure that the structure that the Bill builds is robust enough to withstand those pressures. That is why the authority's non-executive members must be appointed on the basis not of sectional interest but of merit.

We will debate in due course whether the non-executive members should include people from Wales or Scotland, or trade unionists. There are merits to ensuring that the authority listens to all such interests, but I worry that if non-executive members are appointed because they represent one sectional interest or another, the authority's ability to give independent, objective advice to the Government will be limited. We will come on to the details of that when we debate amendments, but that is an important broad principle.

I strongly believe that if we are to have a remedies authority and an effective set of remedies rules, we need to ensure that those principles are clearly set out not just in legislation but by Ministers and those who are appointed to the authority, so that people both here and abroad can see that that is the intention. I think that would also answer some of the concerns about whether the authority will listen to workers through the trade union movement, by ensuring that consultation is broad and that the authority is clearly outward facing.

It comes back down to this last point: if we want others to follow the rules in trade, so that we have a free and fair system, we have to be seen to abide by those rules ourselves. There will come a moment when this authority reports to a Minister, when there will be a totemic business that is right on the cusp because of a particular practice, or there will be job losses that sharply affect a community that has already lost many jobs. At that moment, the test of the authority is whether it is objective. Is it giving its advice to Ministers on the basis of evidence? Is it genuinely independent and therefore able to be trusted by people here and abroad? Those are important principles and I welcome the Minister's response.

Greg Hands: Right.

Bill Esterson: He didn't tell you?

Greg Hands: No.

Mr Davies, I would like to start by stressing that the Government recognise the important role of making sure—that you are in the right place at the right time. [*Laughter*.]

I will respond to my hon. Friend the Member for Hertford and Stortford because he raised some incredibly strong points. Free trade is not trade without rules, as

the Secretary of State outlined on Second Reading. It is vital for us to have the ability to conduct and operate trade remedies. That is the position we need to be in. I am therefore doubly if not triply surprised that the Opposition voted against creating this body on Second Reading.

My hon. Friend outlined—I know that we will come on to debate some of this when we consider the amendments—some of the key parameters that we want in the Trade Remedies Authority, in that it needs to have regard to a wide variety of stakes and interests in this whole process: businesses, workforces, consumers and so on. We need to make sure that our regime is robust in this space.

It is also important for the message we send abroad, because Members know that free trade has been questioned by more and more countries over the last five to 10 years. Many countries are looking at what the UK does generally in trade policy—and that includes trade remedies—to show that we are committed free traders. People are looking forward to the UK rectifying its own schedules at the World Trade Organisation as we retain and regain our independent voice there to make these points. Trade remedies are a vital part of that and it would be folly for the UK not to have a proper arm's length trade remedies authority that can do this.

As for my hon. Friend's points on efficiency and promptness, regarding some of the detail of the Trade Remedies Authority's operations, I advise him to have a look at what is going on with the Taxation (Cross-Border Trade) Bill, which incorporates a lot of the day-to-day workings of the Trade Remedies Authority and is being debated as we speak in another room. Most of all, regarding his important points about the independence and arm's length nature of this body, it is incredibly important to ensure that we have specialists on it who can withstand pressures, non-executives appointed on merit and not representing sectional interests. We need to make sure that our Trade Remedies Authority members can consider UK-wide issues, but also regional issues at the same time, without being beholden to a particular sector or region. Our objective is therefore to have an independent, evidence-based approach to trade remedies.

Question put and agreed to.

Clause 5 accordingly ordered to stand part of the Bill.

Schedule 4

THE TRADE REMEDIES AUTHORITY

Bill Esterson (Sefton Central) (Lab): I beg to move amendment 21, in schedule 4, page 14, line 24, leave out line 34 and insert—

"(a) a member to chair it, appointed by the Secretary of State with the consent of the International Trade Committee of the House of Commons,".

This would establish the requirement for Parliament, through the relevant committee, to give its consent to the Secretary of State's recommendation for appointment to the Chair of the Trade Remedies Authority.

The Chair: With this it will be convenient to discuss the following:

Amendment 39, in schedule 4, page 14, line 34, at end insert

"with the consent of each devolved authority,".

This amendment would require the Secretary of State to secure the consent of each devolved authority before appointing the Chair of the TRA.

Amendment 38, in schedule 4, page 14, line 34, at end insert—

"(aa) a non-executive member appointed by the Secretary of State with the consent of the Scottish Ministers,

(ab) a non-executive member appointed by the Secretary of State with the consent of the Welsh Ministers,".

This amendment would require UK Ministers to secure the consent of the Scottish Ministers and Welsh Ministers to one non-executive member each of the Trade Remedies Authority.

Amendment 22, in schedule 4, page 15, line 2, leave out subsection (3) and insert—

"(3) No person may be appointed as a non-executive member of the Authority under subparagraph (1)(b) unless—

(a) the Secretary of State has first consulted the Chair of the Authority on the proposed appointment, and

(b) the International Trade Committee of the House of Commons has consented to the appointment."

This would establish a procedure for appointing non-executive members of the Trade Remedies Authority other than the Chair.

Amendment 23, in schedule 4, page 15, line 3, at end insert

"(3A) In making any proposal under subparagraph (3), the Secretary of State must ensure that there is on the Authority a representative of —

(a) producers,

(b) trade unions, and

(c) each of the United Kingdom devolved administrations."

This would ensure that the Trade Remedies Authority must include, among its non-executive members, representatives of stakeholder bodies potentially affected by its recommendations.

Amendment 40, in schedule 4, page 16, line 20, after "may" insert

", with the consent of each devolved authority,".

This amendment would require the Secretary of State to secure the consent of each devolved authority before removing a person from office as the chief executive of the TRA.

Amendment 41, in schedule 4, page 17, line 27, at end insert—

"Offices

25A The TRA shall maintain offices in—

(a) Scotland,

(b) Wales, and

(c) Northern Ireland."

This amendment would require that the TRA shall maintain offices in Scotland, Wales and Northern Ireland.

4 pm

Bill Esterson: It is interesting that the hon. Member for Hertford and Stortford chose to speak in the clause 5 stand part debate, because many of the points he made relate to amendments 21, 22 and 23, which I now speak to on behalf of myself and my hon. Friends. During his interesting and thoughtful speech, he made very strong arguments in favour of each of our amendments. He spoke of the need to be evidence-based and objective, which would be much easier achieved by the balanced membership proposed by our amendments. Equally, he spoke of the need for a broad-based membership—I agree. He also made the argument for balancing the different interests that are involved in delivering trade remedies and an effective Trade Remedies Authority. I will be interested to see how he votes, given that he made the case for supporting each of our three amendments.

As ever, the Minister reminds us of the vote on Second Reading. He neglected to say that in our reasoned amendment we called for the need for effective legislation

[Bill Esterson]

to implement the establishment of a Trade Remedies Authority to deliver the new UK trade remedies framework. We voted for that, and he voted against it. If he wants to tell me why he voted against an amendment that called for the establishment of a Trade Remedies Authority to deliver the new UK trade remedies framework, he can do so now.

Greg Hands: I thank the hon. Gentleman for allowing me to do so. We all know that the usual purpose of a reasoned amendment is that it allows an Opposition party to put forward a point of view about a Bill while nevertheless still allowing it not to oppose the Bill itself. That is the standard way in which reasoned amendments operate. We were simply amazed that once his reasoned amendment fell he nevertheless opposed the Bill. That shows that he opposes the continuity of these trade agreements, the creation of a Trade Remedies Authority, and data-sharing powers that will help our exporters. I am afraid that that is on the record from his vote on Second Reading.

Bill Esterson: I am glad that the Minister has confirmed that we voted to support the creation of a Trade Remedies Authority and that he voted against it. I think that was very clear in that lengthy intervention.

As the explanatory statements make clear, amendments 21, 22 and 23 would have the effect of giving Parliament the power of consent over the appointment of a chair to the Trade Remedies Authority set up by the Bill. They would establish a procedure for the appointment of non-executive members to the authority, and ensure that the TRA includes representatives of key stakeholder bodies among its non-executive membership—all things that the hon. Member for Hertford and Stortford requested.

Mr Prisk: I actually said that the non-executive members need not to be beholden to a sectional interest and they need to be able to make a corporate decision. My worry is that amendment 23 does precisely the former. There are some 5.3 million people in the west midlands and some 5.6 million in Scotland. Presumably, according to the logic with which the hon. Gentleman has drafted the amendment, we should also have somebody from the west midlands. I am sure that people from Yorkshire would then like to have someone from Yorkshire. My concern is that ultimately we will end up with one person representing not the broad picture, but a sectional interest. I am very happy to have people who have links and connections to those areas, but to appoint them on the basis of where they come from or to represent one sectional interest would be wrong. Merit should win.

Bill Esterson: Perhaps the appointment of the non-executives can cover all those areas.

Trade remedies and the Trade Remedies Authority are a key element of our trade policy. Gareth Stace of UK Steel told us in one evidence session that

> "If we get this very wrong, we become the dumping ground—not just in Europe, but for the rest of the world."—[*Official Report, Trade Public Bill Committee,* 23 January 2018; c. 66, Q127.]

It is therefore essential that we get it right, and the Bill is our opportunity to do that. The Government have spent the past few days in Committee trying to convince us that the Bill is a technical little Bill that is not trying to do much other than put in place necessary frameworks. On the Trade Remedies Authority in particular, they have gone to great pains to stress that they are simply setting up the necessary structures to carry out our trade defence once we have left the European Union. This much is true: the Trade Bill does set up the Trade Remedies Authority, which will be a key component of our trade policy once we leave the European Union, when we have to carry out our own trade remedies.

Hannah Bardell *rose—*

Faisal Rashid *rose—*

Bill Esterson: I am spoiled for choice. I will give way to the hon. Lady.

Hannah Bardell: I thank the hon. Gentleman for giving way—that was a clash of interventions and I am glad to have won the battle. I absolutely agree with him. Does he agree with me that, although none of us, unfortunately, has tabled the amendment that has just occurred to me, the authority should reflect the gender balance of society? Perhaps there should be a gender balance mechanism, as it will be a public body.

Bill Esterson: It is really important that we take on the challenge set by the hon. Lady and apply it to all public bodies. How we achieve such a gender balance is perhaps a question for wider discussion, but her point is well made. The Minister might achieve the balance she suggests when he creates the authority.

Faisal Rashid: The role of Parliament in overseeing the creation of the Trade Remedies Authority was described to the Committee as "critical" by Chris Southworth of the International Chamber of Commerce. Does my hon. Friend share my concerns that if the Government do not support the amendment, they are clearly choosing to ignore the voice of the ICC? Does he also share my concerns about the repercussions that that might have for the future of UK trade?

Bill Esterson: My hon. Friend makes an excellent intervention, as he has done throughout Committee. That body has to carry the confidence of all sides of industry and all parts of society and of the United Kingdom. It is crucial that it does so, which is why we are attempting to push the amendments through. I imagine, from what the Minister has said, that he is unlikely to support us—why change the habit? Perhaps, however, he will explain how those points will be addressed and how the Government will respond to the witnesses mentioned by my hon. Friend, as well as some of the other witnesses.

The Minister is not letting on that trade remedies are not simply a technical detail of trade policy. They have the potential to be highly political. In essence, trade remedies defend domestic producers from unfair competition from dumped goods from other countries. The remedies are an essential policy tool to correct multilateral distortions, as Mr Stevenson, the specialist adviser to the Manufacturing Trade Remedies Alliance told us last week. Deciding when and how to use such trade defence instruments, however, is a political decision, and a highly political one at that, as is that on the membership of the TRA. It is crucial to get the membership

right, to ensure that the TRA makes correct, balanced and evidence-based recommendations—as the hon. Member for Hertford and Stortford put it—to Government.

As the system is to operate under this Bill and the Taxation (Cross-border Trade) Bill, the Secretary of State has the capacity to use an economic interest test to allow the Government not to take action even when problematic trade behaviour by another country has been identified. In other words, the Government will have the capacity to decide that even when harm is being done to our domestic industries, other interests such as the consumer interest may outweigh those of the producers affected. To quote the words of George Peretz, QC, who we heard from last week:

"That seems to me to be a political position: it is balancing the interests of jobs in a particular area of the country against the interests of consumers across the country".—[*Official Report, Trade Public Bill Committee,* 23 January 2018; c. 55, Q105.]

The same point was made on Second Reading by a number of hon. Members, including about the Scotch whisky and steel sectors.

The Minister cannot pretend that the Bill and the structures created by it are apolitical and purely technocratic. Trade remedies can make the difference between the survival of an industry and its decimation. They can protect thousands of jobs or let them be exported overseas. They can defend our foundation industries or let them fall by the wayside. I am sure the constituents of the hon. Member for Corby can attest to that.

Tom Pursglove (Corby) (Con): That's why I voted to set it up.

Bill Esterson: The hon. Gentleman comments from a sedentary positon; perhaps he is allowed to do that.

Alan Brown: I just want to respond to the comments made by the hon. Member for Corby from a sedentary position. It is ironic that he is saying yet again that we should have voted for the Bill on Second Reading and then tabled amendments, even though the Government have voted against every single amendment.

Bill Esterson: The hon. Gentleman is of course right. I remind the hon. Member for Corby and his colleagues that he and they all voted against our reasoned amendment, which called for the setting up of the Trade Remedies Authority.

Trade remedies are absolutely essential in order to protect British industries, including the steel sector, ceramics, tyres, chemicals and pharmaceuticals. As Gareth Stace of UK Steel told us,

"Trade remedies...are the safety valve that enables free trade to take place."—[*Official Report, Trade Public Bill Committee,* 23 January 2018; c. 66, Q127.]

One need only look at the steel sector to understand why trade remedies are necessary and also how incredibly political they can be.

As the steel crisis highlighted, when no trade remedies are put in place to defend our steel industry against dumping from countries such as China, thousands of jobs are lost and entire communities are negatively affected. We were reminded of that at BEIS questions earlier today, when my hon. Friend the Member for Redcar (Anna Turley) raised the ongoing devastating impact on the community and workers who lost their jobs at SSI. She spoke of the continuing struggle to replace their jobs and to create prosperous alternatives for her constituents. So far, that has not been resolved.

During the steel crisis the Conservative Government under David Cameron acted as the ringleader of a group of countries in Europe trying to block efforts at the European Council to put in place more rigorous anti-dumping measures against China by lifting the lesser duty rule. British steel was going through an existential crisis and the Conservative Government did not use all the policy tools available to them to restore a level playing field. The EU ended up imposing tariffs on unfairly traded steel, but they were much lower than those imposed by other countries such as Australia and the USA.

Now that we are leaving the European Union the Government have rightly set out to create an independent trade remedy regime, yet they seem to not have left their bad habits behind. They still envisage having a lesser duty rule in place. On top of that, they have introduced an economic interest test in the Taxation (Cross-border Trade) Bill. Once again British producers do not make it to the top of the list of concerns for the Secretary of State and Ministers. They seem to want to champion only consumer interests. That is why we believe it is important that Parliament has a say in the appointments to the Trade Remedies Authority and why we believe non-executive members of the TRA should include representatives of producers and trade unions from each of the devolved Administrations. There needs to be an in-built system of checks and balances so that all interests are taken into consideration and all voices are heard. As Mr Southworth from the International Chambers of Commerce said on Tuesday last week, issues such as steel dumping have

"huge implications for a lot of people, particularly in geographies that tend to be vulnerable...It is important that everyone has a chance to have their say about what that decision should be."—[*Official Report, Trade Public Bill Committee,* 23 January 2018; c. 26, Q57.]

Even in the short time that the Department for International Trade has been in existence, its track record on being inclusive and mindful of the input of stakeholders has not been ideal. The consultation on the Trade Remedies Authority ended on the evening of 6 November. By early morning on the 7th, the Trade Bill had been published and delivered to Parliament. James Ashton-Bell of the CBI diplomatically said that

"the optics were not ideal."—[*Official Report, Trade Public Bill Committee,* 23 January 2018; c. 34, Q79.]

What a disgrace. Why did the Government bother to have a consultation when they clearly had no intention of reading the responses, let alone taking on board the suggestions? That is a clear breach of the consultation principles issued to all Departments in 2016.

4.15 pm

Given the Government's flippant disregard for stakeholder engagement, we think it is especially important that Parliament, the devolved Administrations, industry and the trade unions should have a voice in the process, and that that should be set in statute. In the Bill, the Secretary of State has given himself powers to appoint the chair of the TRA. Amendment 21 would establish the requirement that Parliament, through the International Trade Committee, should give its consent to the

appointment. That is so that the chair would not be appointed on the basis of party political considerations or dogma, rather than ability and suitability for the role.

The Secretary of State has flaunted his free trade credentials time and again. His advisers range from the former Institute for Free Trade—it is now called just IFT because it cannot legally call itself an institute—to the Legatum Institute. They are of a certain dogmatic persuasion that trade should be unfettered at all costs. If the Secretary of State were to appoint one of his friends from the IFT or Legatum to chair the TRA, producers, trade unions, and stakeholders in the nations and regions of the UK would have cause for concern.

Greg Hands: I have a quick question: does the hon. Gentleman agree with his party leader that free trade itself is a dogma?

Bill Esterson: I think we should press on. The Minister has enough to worry about.

As Mr Stevenson of the Manufacturing Trade Remedies Alliance told us last week:

"Some see trade remedies as purely protectionist and would abolish them completely".—[*Official Report, Trade Public Bill Committee,* 23 January 2018; c. 65, Q124.]

It is key, therefore, that Parliament, through its relevant Committee, should get to scrutinise who the Secretary of State appoints as the head of the relevant body, and that it should make sure it is someone with the competence, experience and disposition to stand up for the best interests of British industries and the British people.

Similarly, amendment 22 would ensure that the Secretary of State cannot appoint non-executive members to the TRA at his whim and fancy. He should not be able to stack the TRA with members of a certain political and ideological persuasion that would mean they would be less likely to act on complaints brought forward and less likely to recommend measures. We heard from Mr Stevenson of the MTRA last week that if all its members

"thought trade remedies were protectionist, we would never get any trade remedies through".—[*Official Report*, Trade Public Bill Committee, 23 January 2018; c. 65, Q124.]

Parliamentary scrutiny of the membership of the TRA is even more important in the light of the evidence given to this committee by Mr Tom Reynolds of the British Ceramic Confederation. He highlighted to us at column 67 that, within the context of our membership of the European Union, the UK Government took on the role of the "liberal counterweight" opposing strong trade defence measures. However, now that we will not have the other 27 member states, of which a majority is for trade remedies, we cannot afford to take the same approach.

Unfortunately, according to Mr Reynolds, UK civil servants and experts are "steeped in that heritage" of the UK being a neo-liberal counterweight. We cannot afford to let that institutional memory dictate how our independent trade defence policy is conducted. We need to ensure that the non-executive board of the TRA is a watchdog that ensures balance in the system. The only way to do that is to allow this House, through the appropriate Committee, to have a say on the appointment of the board members.

Finally and most importantly, amendment 23 would ensure that the TRA includes among its non-executive members representatives of stakeholder bodies potentially affected by the recommendations of the TRA. Those stakeholders are the producers, the trade unions representing the workers and a representative of each of the devolved Administrations. We have put that into our amendment because we believe that the key stakeholders affected by unfair trading practices should be represented around the table where decisions are being made that affect the survival of their industries and jobs, and the wellbeing of their communities. The TRA will only be enriched by experts from industry, trade unions and the devolved Administrations, who are the ones facing the realities of dumping on a day-to-day basis and close to home.

Matt Western: Does my hon. Friend have a view on the recent situation with Bombardier and the involvement of the US trade body that found in its favour? Are there any learnings from that? I am specifically interested in the role of the unions on that body, as well as industry representatives.

Bill Esterson: My hon. Friend is right to raise that. The Bombardier experience shows that countries are prepared to apply very significant trade remedies. We have to be realistic. We need to be in a position to have our own trade remedies system, be prepared to use them and not expect that not using such processes is always appropriate. That is why we must have the right membership, including from the trade unions, to protect jobs, as my hon. Friend has said, because otherwise we leave ourselves wide open.

Greg Hands: Can the hon. Gentleman be absolutely clear? I am intrigued. Is he saying therefore that he agrees with the US approach—not having a lesser duty rule and allowing these very large punitive tariffs to be put on British industry, Bombardier in this case, exporting to the United States? I think he is agreeing that he likes the US approach.

Bill Esterson: That is not what I was suggesting. I am saying that we have to recognise that countries such as the US, as demonstrated by this case, are prepared to act. We have to be realistic about that. We have to make sure that we have the right representation on the TRA so that we are making the right case. I do not think 300% tariffs is a good idea at all, but we certainly need to be able to make the right judgments when such things apply. There is a balance between protectionism and the approach in the Bombardier case.

Barry Gardiner: Does my hon. Friend agree that it would be foolish to look at one specific example of an outrageous situation, as we have had with Bombardier in the US? Thank goodness that the ITC came to the correct conclusion there. Just because it is possible to arrive at the wrong conclusion should not mean that one judges the lesser duty rule simply on that.

Bill Esterson: Of course that is right. My hon. Friend deserves credit for taking the time and effort to go and meet the ITC and to make the case with the trade unions and others from this country. The lobbying that he and others were involved in played no small part in delivering for workers and business in the UK. He deserves a lot of credit for that. I will return to my speech—

Matt Western: Will my hon. Friend give way?

Bill Esterson: What a good idea.

Matt Western: This reminds me of Saturday afternoons watching wrestling. *[Laughter.]* The crucial thing about the TRA is that it is a facilitator, not a barrier, to ensure the needs of sectors and those involved in the sectors, whether workers or businesses. That came across very clearly in the representations from witnesses last week as something they want. My hon. Friend mentioned the chairmanship. As with the Office for Budget Responsibility, it is crucial that the chair is seen as an important role and not some political lackey.

Bill Esterson: Yes, that is exactly right. The point is to get the balance between how the Conservative Government under David Cameron blocked attempts to use appropriate trade remedy measures to defend our steel industry and the excessive use of them by the Americans. That is what the new TRA should do and that is why it needs to have the right balance of membership.

The message from the evidence given by the witnesses last week was loud and clear: stakeholders want representation on the TRA. They want their voices to be heard and their concerns taken into account, and they want that guaranteed in statute, not through ad hoc discussions with the Government. George Peretz QC told us that the composition of the TRA

"ought to be balanced by statute and that it ought to reflect a variety of different perspectives."—[*Official Report, Trade Public Bill Committee,* 23 January 2018; c. 55, Q105.]

We also heard from James Ashton-Bell of the CBI, that:

"In anything where you are making choices about trade and how it will impact the wider economy, you should have a wide and balanced group of people advising Government, or an independent authority, about how to make those choices."—[*Official Report, Trade Public Bill Committee,* 23 January 2018; c. 25, Q54.]

Chris Southworth of the International Chamber of Commerce concurred, saying that

"the representation is a critical point. An independent body, yes, but there must be representation within that independent body to represent all the important voices".—[*Official Report, Trade Public Bill Committee,* 23 January 2018; c. 25, Q54.]

That responds to the question by my hon. Friend the Member for Warwick and Leamington.

If the Minister will not listen to me, will he at least listen to business associations, industry representatives, trade unions, academics, QCs and civil society? They are all coming out against how he and his Department are going about this. I urge Members on all sides to support our three amendments, but if the inevitable happens and the Minister leads them into voting us down, I look forward to him bringing forward his alternatives later in proceedings.

Hannah Bardell: It is a pleasure to serve under your chairmanship once again, Mr Davies. It has been a fascinating debate. I want to say at the outset that we absolutely support our colleagues in the Labour party in their amendments, but have also tabled amendments 39, 38, 40 and 41, which I will speak to.

The legislation needs to be strengthened. Amnesty's response was interesting. It said that an independent body with appropriate expertise should be established with a remit to conduct or commission assessment impacts of future free trade agreements on human rights, equality and the environment in the UK and of trading partners. This could be the proposed Trade Remedies Authority if it were given the resources, remit and powers.

On powers, it is important to remember that we are 20 years on from devolution. Devolution delivered huge changes across the nations of the UK. I can understand that many in England perhaps feel somewhat left behind, because we have moved on in Scotland, Wales and Northern Ireland. I have some sympathy with that but the point of the amendments is respecting devolution, and recognising the nations of the UK and the relationship that they have developed directly with the EU, and the importance of trade.

The Scottish Parliament was established to be accountable and answerable to the people of Scotland, to be open and encourage participation, to be accessible and to involve all the people of Scotland in its decisions as much as possible, and to have power sharing. That is an important point: power should be shared among the Scottish Government, the Scottish Parliament and the people of Scotland.

On the decisions about where the Trade Remedies Authority is physically located and about whether it will have non-exec members, decisions about the businesses and the people of each of the nations of the UK are best made as close to those people as possible. We understand that the functions of the Trade Remedies Authority will be reserved and it will undertake trade remedies investigations across the UK, but it is important that Scottish, Welsh and Northern Ireland Ministers have a role in the Trade Remedies Authority.

Amendment 39 requires the Secretary of State to secure the consent of each of the devolved nations before appointing a chair to the Trade Remedies Authority. We feel it is only fair that we have a say in that matter. It is common practice for interview panels to be made up of people from a range of disciplines. The hon. Member for Hertford and Stortford said that there will be a range of people, but I am sure he will have sympathy with my view that, although the west midlands is a very important part of the UK, it is not a country in the way that Scotland is. Since 2007, Scottish exports to the EU have grown by more than 25%. The EU market is eight times larger than the UK's alone. Scotland exported £12.3 billion-worth of exports to the EU in 2015, and that figure is growing, so the EU is a hugely important market for us. It stands to reason that Wales and Northern Ireland must have a fair and proper say in who is appointed.

4.30 pm

I sat on the Enterprise Bill Committee in 2016 when the Small Business Commissioner was created, and I thought that was an excellent idea. It was great to see ideas being taken from Australia. Forgive me for going slightly off topic for a second, Mr Davies, but at the time, the Secretary of State for Business, Innovation and Skills made a lot of the fact that the Small Business Commissioner was based on the Australian model. I went to Australia and met the small business commissioner of Victoria and New South Wales. In Australia, there is an overall federal commissioner, individual state commissioners, and individual offices in each area of the country. In contrast, we have only one commissioner. It strikes me that this Bill mirrors that approach, in that the Trade Remedies Authority is centralised. That is my concern.

We genuinely want to ensure that the nations of the UK have a fair and proper say, which is why amendment 40 would require the Secretary of State to secure each devolved authority's consent before removing the chief executive of the Trade Remedies Authority from office. In practice, having non-exec members on the TRA means that representation and influence from each of the devolved nations will be built into the authority. I am sure it is not beyond the wit of any authority, when it sets up a process, to establish consent through fair and proper human resources processes. It is interesting that Jude Kirton-Darling MEP said in evidence:

"There is a clear role for stronger scrutiny. Inside the legislation, there is no obligation on the Secretary of State or the new Trade Remedies Authority to engage directly with Parliament through, for example, a specific Committee of Parliament."—[*Official Report, Trade Public Bill Committee*, 23 January 2018; c. 45, Q88.]

I understand that this is uncharted territory for Parliament, but it would do us good, in terms of our international reputation and how we interact with business and stakeholders, to be seen to be agile, flexible and able to change our procedures to deal with whatever comes down the line. I do not want Brexit to happen. I do not want the UK or Scotland to leave the EU, and Scotland did not vote to leave it, but in this Bill we must take on board points made by not just parliamentarians and politicians, but businesses.

Amendment 41 would require the Trade Remedies Authority to maintain offices in Scotland, Wales and Northern Ireland, and require those offices to play a key role in ensuring that the views and needs of the devolved Administrations were safeguarded in the authority's day-to-day-running. Establishing the UK Green Investment Bank in Edinburgh was, in fairness to the Conservative Government, a positive move. Lots of things have happened since then—things have changed somewhat—but the fact that it was established in Edinburgh and that there was cross-party consensus was positive. Why do the Government not take forward that good work and consider accepting our amendment?

Going back to my earlier point, ensuring that the decisions are made in the devolved nations would be recognition of the distinct nature of the nations of the UK and the differences in the way they do business with each other, with Europe and with the rest of the world. We all know that the Scotland Act 1998 was very careful to state that everything that is not expressly reserved is devolved. It is really important that we take that on board.

Mr Prisk: On a point of order, Mr Davies. I have been listening to the hon. Member for Sefton Central and the hon. Member for Livingston, and it is clear that these are broad subjects. Will you confirm that it is not your intention to have an additional debate on schedule 4, and that given the scope of what is being discussed—not just the amendments but wider issues—this is in effect a stand part debate on schedule 4?

The Chair: That decision is at my discretion. It may actually end up being at the discretion of one of my fellow Chairs, and I do not want to commit them to anything, but I certainly hear what the hon. Gentleman says.

Hannah Bardell: I feel that it is important to make these broader points, because they are germane to the issue and to the amendments.

For us, the bottom line is ensuring that the devolved nations and the devolution settlements that were agreed on a cross-party basis are respected. That is absolutely at the heart of these amendments. I hope that we are able to get support for them, cross-party—and certainly from our Labour colleagues.

Greg Hands: May I start by correcting an inadvertent error I made earlier? I mentioned an agreement that was signed by the Secretary of State for International Trade with South Africa and SADC in August or September. It was actually earlier than that. It was signed in July by Lord Price. I know that the hon. Member for Brent North takes an interest in South Africa, so I will quote briefly from what was said:

"The Southern African Customs Union…has welcomed the UK's intention to prevent disruption of trade relations with other countries as it leaves the European Union".

I think that clears up where we are with South Africa.

Let me start by stressing that the Government recognise the important role that Parliament, industry stakeholders and the devolved Administrations play in building the UK's future independent trade policy. We look forward to working with all those groups and organisations on the establishment and operation of the Trade Remedies Authority to ensure that their views and interests are taken into account where appropriate. However, these amendments are not appropriate to the creation of that new function.

Decisions on trade remedies cases can have profound effects on markets, so we need to create an independent and objective investigation process in which businesses and consumers have full confidence. That is why we are setting up the Trade Remedies Authority as an arm's length body with the appropriate degree of separation from the Department for International Trade. The hon. Member for Sefton Central said that trade remedies are inevitably political. That is precisely why we are ensuring that investigation and evidence-gathering must be done independently.

Faisal Rashid: James Ashton-Bell of the CBI told us that the fundamental question it has about the Trade Remedies Authority is

"who makes the ultimate decisions about when to take action and when not to take action."—[*Official Report, Trade Public Bill Committee,* 23 January 2018; c. 24, Q52.]

Given the lack of clarity about that, does the Minister agree that it is vital that appointment to and operation of the Trade Remedies Authority is as transparent as possible?

Greg Hands: Yes, and the authority is very transparent in its operation. A lot of how the authority operates is outlined in the Taxation (Cross-border Trade) Bill, which is being debated down the corridor. I strongly feel that there is really good transparency in the arrangements we have made regarding the authority's independence, arm's length nature and specialist and independent evidence-gathering. We are also ensuring that it is accountable to the Government and that, at the end of the day, a political decision is still taken about whether to impose trade remedies.

Barry Gardiner: I think we would all welcome a sense that this body was independent, so can it be right that one person with a particular view of trade should be empowered under the Bill to appoint every single member

of the TRA, including the chair? Depending on the order in which they make the appointments, that is entirely possible under the Bill.

Greg Hands: No, it is not.

Barry Gardiner: The Minister is shaking his head, but under the Bill, so long as the Secretary of State appoints the chair last—there is nothing to prevent him doing that—he is empowered, absolutely on his own, to put his friends, cronies and the people who have his view of trade in every single position. He would then appoint the chair. If he appoints the chair first, he has to do the rest in conjunction with others.

Greg Hands: Let me be of assistance to the hon. Gentleman. It is quite clearly laid out in the appointments procedure that the Secretary of State appoints the chair, and the other non-executives in consultation with the chair. In exceptional circumstances, the Secretary of State can appoint the chief executive, but only if the chair has not yet been appointed. That is laid out in the legislation. The executive members are not appointed by the Secretary of State. It is important to understand that the Secretary of State does not appoint the whole body.

On top of that, the appointments process of course follows good governance principles and rules on public appointments. For the benefit of the Committee, I will outline those rules. First, the Government are responsible for setting out the processes and principles that underpin the management of public bodies. Secondly, there are explicit rules on the roles of Ministers and Departments in the public appointments process. The rules outline the role of the Commissioner for Public Appointments, who is the independent regulator of public appointments. I am sure they would take more than a casual interest in the TRA, were the case that the hon. Member for Brent North outlined to transpire.

The rules also include the governance code for public appointments. We have worked with governance experts in the Cabinet Office and HM Treasury to ensure that the TRA complies with those governance rules and others. The rules include guidance on managing public money and all the usual protections we would expect to see in an appointments process.

Barry Gardiner: Will the Minister, in the light of his remarks, comment on schedule 4(2)(1)? It states:

"The TRA is to consist of…a Chair appointed by the Secretary of State…other non-executive members appointed by the Secretary of State…a chief executive appointed by the Chair with the approval of the Secretary of State or, if the first Chair has not been appointed, by the Secretary of State, and…other executive members appointed by the Chair."

In other words, the majority of the Committee—all the non-executive members, the chair and the chief executive—can be appointed by one individual: the Secretary of State.

Greg Hands: I refer the hon. Gentleman to later in the schedule. If he would care to turn over the page, it states:

"The Secretary of State must consult the Chair before appointing the other non-executive members."

He is being highly selective in choosing elements of the Bill that appear to suit his argument.

Most importantly, these are public appointments, so we will of course have a standard competitive process following good governance principles and rules on public appointments. The successful candidates will be selected based on whether they have the right skills and experience to deliver this new UK-wide function effectively. The arrangements are broadly consistent with those of equivalent arm's length bodies.

On the role of Parliament and amendments 21 and 22, it is important to ensure that the TRA's senior leadership, and particularly its chairman, are in place as early as possible to enable the TRA to be operational by the time the UK leaves the EU. That will ensure continuity for UK industry. Giving the International Trade Committee a role in the appointment of members to the TRA, including its chair, would add additional stages to the appointment of non-executive members, thereby delaying the process. More significantly, referring back to the point made by my hon. Friend the Member for Hertford and Stortford, it would risk politicising the appointment process, thereby undermining the TRA's status as an independent and impartial body.

4.45 pm

Amendments 23 and 38 to 41 on the devolved Administrations, industry and other stakeholders risk directly undermining the TRA's independence, impartiality and expertise by allowing appointees who are beholden, or perceived to be beholden, to the groups whose interests they represent. Those appointed members could be at risk of making decisions based on vested interests, rather than on behalf of the whole UK economy. They could undermine the TRA's expertise by allowing its non-executive members to be appointed based on the clout of their stakeholder group, rather than on merit.

Creating additional TRA offices in the territories of the devolved Administrations would not offer any clear further benefit to its functions, though it would add to the cost of the new body. Let me make it clear that we are committed to setting up the TRA with the ability to operate a UK-wide function.

Alan Brown: To be clear, people appointed on merit by the UK Government will be completely impartial, but people appointed by devolved Governments will suddenly have such conflicts of interest that it will pull the whole TRA system down a hole?

Greg Hands: I appreciate the hon. Gentleman's point, but the point is to have a UK-wide perspective, and for the appointments to be based on expertise in that space, and made following good governance principles. That is the objective for the membership of the TRA.

On trade remedies, I think the hon. Member for Sefton Central impugned my hon. Friend the Member for Corby by saying that he was not sufficiently interested in the steel industry. I have known my hon. Friend for some time, and he is incredibly passionate about the steel industry. He takes a keen interest in the operations of the TRA, and is quite expert in this space. He knows that much of the detail of the operation of the TRA is not in this Bill but in the Taxation (Cross-border Trade) Bill.

Bill Esterson: The Minister really should not make such accusations; he knows that is not what I said or what I meant. I am well aware that the hon. Member for

[Bill Esterson]

Corby takes a keen interest in the subject, along with all Members representing constituencies across the country with a steel industry presence; they work together extremely hard, cross-party, to try to support the steel industry. It was a completely inaccurate accusation, and I hope the Minister will withdraw it. My criticism was entirely of the Government and their failure in the European Union to support the measures that were needed.

Greg Hands: I think we are in one of those cycles; I am alleged to have impugned the hon. Gentleman by saying that he impugned my hon. Friend the Member for Corby. I will just leave it on the record that my hon. Friend is a doughty defender of the steel industry in the House, and through his influence with the Government.

I think the hon. Member for Sefton Central suggested that the Secretary of State should not appoint members at all. We need the Secretary of State to appoint the non-executive members in order to ensure that they are directly accountable to an elected representative with responsibility for the whole UK, because ultimately trade remedy measures will be taken across the UK. That person is quite properly the Secretary of State, who is accountable to Parliament. That is broadly in line with what happens in other arm's length bodies.

The hon. Gentleman also talked about putting in place the right framework for the TRA. We are clear that we will operate a robust trade remedies regime to protect UK industry from injury caused by unfair trading practices and unforeseen surges in imports. I said of the TRA at the very beginning that free trade does not mean trade without rules. Rules are incredibly important, and making sure we have a strong defensive capability is a key part of that. That is why there will be a presumption in favour of measures in all dumping and subsidies investigations—that is in the Taxation (Cross-border Trade) Bill.

It is right that there is a mechanism for identifying whether measures are likely to have a disproportionate impact on other economic actors in the UK, such as downstream industries and consumers, and whether they might have a regional impact or an impact in one of the nations of the United Kingdom. The economic interest test ensures that the trade remedy system takes into account wider economic considerations in addition to the interests of UK producer industries. It is a chance to step back and consider whether measures would be in the best economic interests of the UK and will ensure that measures are not imposed where that is not the case.

Points were raised about different balances within the board. We have to come back to the overriding factor that should prevail to ensure that we comply with good governance principles: appointments are made following an open, competitive process on the basis of merit and on the basis of being able to discharge the function of looking at the whole question of a particular issue that might be prompting a trade remedy on a UK-wide basis. That is why it is important that we have built appropriate processes into the framework set out in the Taxation (Cross-border Trade) Bill to ensure that impacts on Scotland, Wales and Northern Ireland are given due consideration.

Barry Gardiner: The Minister is being extremely generous in giving way. Before he finishes his peroration, would he agree with me that there is a sensible distinction to be made between the executive members and the non-executive members of the TRA? Executive members are expected to be specialists. They are expected to have specialist trade knowledge or specialist knowledge that could determine whether dumping has taken place and so on. The non-executive members have more of a representative function. In that context, would he not see that that distinction in the amendments and others we support has some purchase?

Greg Hands: I thank the hon. Gentleman for that intervention because it allows me to say that I do not agree. The non-executive members are not intended to be representatives of particular interests or particular parts of the United Kingdom, or particular sectors or producers or consumers or trade unions. The idea is that all members of the board have the ability to think right across the question of what is happening in terms of the injury that has been created or reported to have been created. What is the best way of assessing all the evidence? What is the best way of doing, for example, the economic interest test? I entirely disagree with him. These people are not representatives. They are able to take a dispassionate, evidence-based and informed decision, looking at all of the available evidence.

The TRA will consider the wider impact of trade remedy measures as part of the economic interest test. As part of that process, the TRA will consider the impact of measures on different groups across the UK, including any regional or distributional consideration. It is important to understand that its members do not have to be, and in fact should not be, representatives of those regional distributional considerations or producer or consumer and so on. They are designed to look at the evidence and come to a recommendation based on the overall evidence in front of them. It will also consider the likely impact on affected industries and consumers. We would expect the TRA to gather information where relevant to inform the economic interest test. For those reasons, I ask the hon. Gentleman to withdraw the amendment.

Bill Esterson: I will not be withdrawing the amendment. The Minister talks about good governance. Non-executives often, on many boards, in many situations, come from membership organisations. They then use their judgment on a wide range of issues, but they come from those membership organisations. I am afraid he is wrong about that. He speaks of the risk of political appointments. There is one way to ensure that this is a politicised series of appointments: to leave everything in the hands of the Secretary of State. That is for sure. If the appointment process is so watertight, why is there a whole section in the Bill dedicated to what happens if the chief executive is appointed by the Secretary of State? It is being anticipated as, I guess, a quite likely scenario.

The Minister talked about accountability to Parliament, but there is none under the Bill. There are a number of examples of parliamentary scrutiny of appointments. Select Committees play a significant role in a number of appointments to public office. The Treasury Committee gives its consent to the appointment and dismissal of members of the Budget Responsibility Committee. The Digital, Culture, Media and Sport Committee

has the power of veto over the appointment of an Information Commissioner, and there are a number of examples of pre-appointment hearings for significant public appointments.

When something is so crucial to our economic and international trade future, why do the Government not care to involve the Select Committee in the appointments? If they will not support the amendments, I look forward to them coming forward and dealing with the point that the Minister made in his summing up about how he expects accountability to be delivered to Parliament. I will put our three amendments to the vote.

Question put, That the amendment be made.

The Committee divided: Ayes 9, Noes 10.

Division No. 19]

AYES

Bardell, Hannah	McMorrin, Anna
Brown, Alan	Rashid, Faisal
Cummins, Judith	Smith, Nick
Esterson, Bill	Western, Matt
Gardiner, Barry	

NOES

Badenoch, Mrs Kemi	Pursglove, Tom
Hands, rh Greg	Stewart, Iain
Hughes, Eddie	Vickers, Martin
Keegan, Gillian	Whittaker, Craig
Prisk, Mr Mark	Wood, Mike

Question accordingly negatived.

Amendment proposed: 39, in schedule 4, page 14, line 34, at end insert

"with the consent of each devolved authority,".—*(Hannah Bardell.)*

This amendment would require the Secretary of State to secure the consent of each devolved authority before appointing the Chair of the TRA.

Question put, That the amendment be made.

The Committee divided: Ayes 2, Noes 10.

Division No. 20]

AYES

Bardell, Hannah	Brown, Alan

NOES

Badenoch, Mrs Kemi	Pursglove, Tom
Hands, rh Greg	Stewart, Iain
Hughes, Eddie	Vickers, Martin
Keegan, Gillian	Whittaker, Craig
Prisk, Mr Mark	Wood, Mike

Question accordingly negatived.

Amendment proposed: 38, in schedule 4, page 14, line 34, at end insert—

"(aa) a non-executive member appointed by the Secretary of State with the consent of the Scottish Ministers,

(ab) a non-executive member appointed by the Secretary of State with the consent of the Welsh Ministers,"—*(Hannah Bardell.)*

This amendment would require UK Ministers to secure the consent of the Scottish Ministers and Welsh Ministers to one non-executive member each of the Trade Remedies Authority.

Question put, That the amendment be made.

The Committee divided: Ayes 9, Noes 10.

Division No. 21]

AYES

Bardell, Hannah	McMorrin, Anna
Brown, Alan	Rashid, Faisal
Cummins, Judith	Smith, Nick
Esterson, Bill	Western, Matt
Gardiner, Barry	

NOES

Badenoch, Mrs Kemi	Pursglove, Tom
Hands, rh Greg	Stewart, Iain
Hughes, Eddie	Vickers, Martin
Keegan, Gillian	Whittaker, Craig
Prisk, Mr Mark	Wood, Mike

Question accordingly negatived.

5 pm

Amendment proposed: 22, in schedule 4, page 15, line 2, leave out subsection (3) and insert—

"(3) No person may be appointed as a non-executive member of the Authority under subparagraph (1)(b) unless—

(a) the Secretary of State has first consulted the Chair of the Authority on the proposed appointment, and

(b) the International Trade Committee of the House of Commons has consented to the appointment.".—*(Bill Esterson.)*

This would establish a procedure for appointing non-executive members of the Trade Remedies Authority other than the Chair.

Question put, That the amendment be made.

The Committee divided: Ayes 9, Noes 10.

Division No. 22]

AYES

Bardell, Hannah	McMorrin, Anna
Brown, Alan	Rashid, Faisal
Cummins, Judith	Smith, Nick
Esterson, Bill	Western, Matt
Gardiner, Barry	

NOES

Badenoch, Mrs Kemi	Pursglove, Tom
Hands, rh Greg	Stewart, Iain
Hughes, Eddie	Vickers, Martin
Keegan, Gillian	Whittaker, Craig
Prisk, Mr Mark	Wood, Mike

Question accordingly negatived.

Amendment proposed: 23, in schedule 4, page 15, line 3, at end insert—

"(3A) In making any proposal under subparagraph (3), the Secretary of State must ensure that there is on the Authority a representative of —

(a) producers,

(b) trade unions, and

(c) each of the United Kingdom devolved administrations.".—*(Bill Esterson.)*

This would ensure that the Trade Remedies Authority must include, among its non-executive members, representatives of stakeholder bodies potentially affected by its recommendations.

Question put, That the amendment be made.

The Committee divided: Ayes 9, Noes 10.

Division No. 23]

AYES

Bardell, Hannah	McMorrin, Anna
Brown, Alan	Rashid, Faisal
Cummins, Judith	Smith, Nick
Esterson, Bill	Western, Matt
Hands, rh Greg	

NOES

Badenoch, Mrs Kemi	Pursglove, Tom
Hands, rh Greg	Stewart, Iain
Hughes, Eddie	Vickers, Martin
Keegan, Gillian	Whittaker, Craig
Prisk, Mr Mark	Wood, Mike

Question accordingly negatived.

Amendment proposed: 40, in schedule 4, page 16, line 20, after "may" insert

", with the consent of each devolved authority,".*—(Hannah Bardell.)*

This amendment would require the Secretary of State to secure the consent of each devolved authority before removing a person from office as the chief executive of the TRA.

Question put, That the amendment be made.

The Committee divided: Ayes 2, Noes 10.

Division No. 24]

AYES

Bardell, Hannah	Brown, Alan

NOES

Badenoch, Mrs Kemi	Pursglove, Tom
Hands, rh Greg	Stewart, Iain
Hughes, Eddie	Vickers, Martin
Keegan, Gillian	Whittaker, Craig
Prisk, Mr Mark	Wood, Mike

Question accordingly negatived.

Amendment proposed: 41, in schedule 4, page 17, line 27, at end insert—

"Offices

25A The TRA shall maintain offices in—

(a) Scotland,

(b) Wales, and

(c) Northern Ireland.".*—(Hannah Bardell.)*

This amendment would require that the TRA shall maintain offices in Scotland, Wales and Northern Ireland.

Question put, That the amendment be made.

The Committee divided: Ayes 9, Noes 10.

Division No. 25]

AYES

Bardell, Hannah	McMorrin, Anna
Brown, Alan	Rashid, Faisal
Cummins, Judith	Smith, Nick
Esterson, Bill	Western, Matt
Gardiner, Barry	

NOES

Badenoch, Mrs Kemi	Pursglove, Tom
Hands, rh Greg	Stewart, Iain
Hughes, Eddie	Vickers, Martin
Keegan, Gillian	Whittaker, Craig
Prisk, Mr Mark	Wood, Mike

Question accordingly negatived.

Ordered, That further consideration be now adjourned. *—(Craig Whittaker.)*

5.5 pm

Adjourned till this day at half-past Five o'clock.